

By Mr. GOULD: A bill (H. R. 25771) for the relief of James M. McKenney; to the Committee on Military Affairs.

By Mr. KORBLY: A bill (H. R. 25772) for the relief of the heirs of Bernhard Strauss; to the Committee on War Claims.

By Mr. McCALL: A bill (H. R. 25773) granting a pension to Charles McHugh; to the Committee on Invalid Pensions.

By Mr. OLMSTED: A bill (H. R. 25774) granting an honorable discharge to Francis Tomlinson; to the Committee on Military Affairs.

By Mr. POST: A bill (H. R. 25775) granting an increase of pension to William A. Barnes; to the Committee on Invalid Pensions.

By Mr. POWERS: A bill (H. R. 25776) for the relief of Sarah Ann Slaven; to the Committee on War Claims.

Also, a bill (H. R. 25777) for the relief of the heirs of Samuel Griffin, deceased; to the Committee on War Claims.

By Mr. STEPHENS of California: A bill (H. R. 25778) to authorize the sale and issuance of patent for certain land to H. W. O'Melveny; to the Committee on the Public Lands.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER (by request): Memorial of Tow Ryccewy sw Kazirmina Kroll Society, No. 344, of Chicago, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. ASHBROOK: Petition of the American Embassy Association of New York City, favoring passage of House bill 22589, for improvement of consular and diplomatic building; to the Committee on Foreign Affairs.

Also, petition of R. Reiser and 5 other merchants of Tuscarawas, Ohio, protesting against the enactment of proposed parcel-post legislation; to the Committee on the Post Office and Post Roads.

By Mr. BARTHOLDT: Petitions of the Chas. F. Luehrmann Hardwood Lumber Co. and the Antrim Lumber Co., of St. Louis, Mo., that the same privilege be given the shipper to go to court to correct mistakes as is given the carrier; to the Committee on the Judiciary.

Also, petition of the Antikamnia Chemical Co., of St. Louis, Mo., against the Wright bill, imposing a tax upon the production, etc., of habit-forming drugs; to the Committee on Ways and Means.

Also, petition of the Workingmen's Sick and Death Benefit Society, Branch No. 71, of St. Louis, Mo., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. DIFENDERFER: Petition of the Daughters of Liberty of Pennsylvania, and of Wyndmoor Council, No. 770, Order of Independent Americans, favoring passage of House bill 22527, for restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Women's Auxiliary of the Church of the Messiah of Gwynedd, Pa., favoring passage of bill for medical and sanitary relief of the natives of Alaska; to the Committee on Territories.

By Mr. FOCHT: Petition of citizens of Pennsylvania, favoring passage of the Berger old-age pension bill, pensioning deserving men and women over 60 years of age; to the Committee on Pensions.

By Mr. FORNES: Petition of the Brotherhood of Locomotive Engineers, favoring passage of workmen's liability act; to the Committee on the Judiciary.

By Mr. GOLDFOGLE: Memorial of citizens of Chicago, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of the committee of Wholesale Grocers of New York City, favoring reduction of tax on raw and refined sugars; to the Committee on Ways and Means.

Also, petition of the National Association of Piano Merchants of America, against passage of the Oldfield bill proposing change in patent laws; to the Committee on Patents.

By Mr. LEZ of Pennsylvania: Petition of citizens of Glen Carbon, Mich., against passage of Burton-Littleton bill, to celebrate 100 years of peace with England; to the Committee on Industrial Arts and Expositions.

By Mr. MAGUIRE of Nebraska: Petition of citizens of the first congressional district of the State of Nebraska, against passage of a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. MANN: Petition of the Chicago Association of Commerce, against the repeal of the Tarsney Act by the sundry civil bill; to the Committee on Appropriations.

By Mr. RAKER: Memorial of the California Club, of California, favoring passage of bill giving the right of franchise to every native-born American woman of the United States, irre-

spective of the nationality of her husband; to the Committee on the Judiciary.

By Mr. REILLY: Petition of the National Association of Piano Merchants of America, protesting against any legislation affecting price maintenance; to the Committee on Patents.

By Mr. SABATH: Memorial of Holy Mother of Lazajs B. Society, No. 179, of Chicago, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

#### SENATE.

TUESDAY, July 16, 1912.

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. Smoot and by unanimous consent, the further reading was dispensed with and the Journal was approved.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed, without amendment, the bill (S. 4745) to consolidate certain forest lands in the Paulina (Oreg.) National Forest.

The message also announced that the House had passed the following bills, each with an amendment, in which it requested the concurrence of the Senate:

S. 338. An act authorizing the sale of certain lands in the Colville Indian Reservation to the town of Okanogan, State of Washington, for public-park purposes;

S. 5446. An act relating to partial assignments of desert-land entries within reclamation projects made since March 28, 1908;

S. 6934. An act to provide an extension of time for submission of proof by homesteaders on the Uintah Indian Reservation; and

S. 7002. An act to authorize the Secretary of the Interior to grant to Salt Lake City, Utah, a right of way over certain public lands for reservoir purposes.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H. R. 17239) to authorize the Arkansas & Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River.

The message also announced that the House insists upon its amendment to the bill (S. 4568) granting an increase of pension to Annie R. Schley, disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. WOOD of New Jersey managers at the conference on the part of the House.

The message further announced that the House insists upon its amendments to the bill (S. 4948) to amend an act approved May 27, 1908, entitled "An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes," disagreed to by the Senate, agrees to the conference asked for by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. STEPHENS of Texas, Mr. GUDGER, and Mr. BURKE of South Dakota managers at the conference on the part of the House.

The message also announced that the House insists upon its amendment to the joint resolution (S. J. Res. 100) authorizing the Secretary of the Interior to permit the continuation of coal-mining operations on certain lands in Wyoming, disagreed to by the Senate, agrees to the conference asked for by the House on the disagreeing votes of the two Houses thereon, and had appointed Mr. ROBINSON, Mr. TAYLOR of Colorado, and Mr. MONDELL managers at the conference on the part of the House.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 4012. An act to authorize the exchange of certain lands with the State of Michigan;

H. R. 19339. An act granting public lands to the cities of Boulder and Canon City, in the State of Colorado, for public-park purposes;

H. R. 23293. An act for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo.; and

H. R. 23568. An act to amend section 55 of "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909.

#### PETITIONS AND MEMORIALS.

Mr. OLIVER presented a memorial of sundry citizens of South Pittsburgh, Pa., remonstrating against an appropriation being made to be used for the purpose of celebrating the one

hundredth anniversary of peace with England, which was referred to the Committee on Foreign Relations.

He also presented a petition of members of the Washington County Medical Society, of Pennsylvania, praying for the establishment of a national department of public health, which was ordered to lie on the table.

He also presented a memorial of members of the Lithuanian Societies, of Wilkes-Barre, Pa., remonstrating against the enactment of legislation to further restrict immigration, which was ordered to lie on the table.

Mr. CULLOM presented a petition of members of the Cort Club, of Chicago, Ill., praying for the passage of the so-called injunction limitation bill, which was referred to the Committee on the Judiciary.

He also presented a petition of the Christian Endeavor Society of the First Presbyterian Church, of Champaign, Ill., praying for the enactment of an interstate liquor law to prevent the nullification of State liquor laws by outside dealers, which was referred to the Committee on the Judiciary.

Mr. McLEAN presented petitions of Local Union No. 453, Brass and Aluminum Molders, of Hartford; of Local Union No. 11, International Association of Steam, Hot Water, and Power Pipe Fitters and Helpers, of New Haven; of the Central Labor Union of Bridgeport; of Local Union No. 127, United Brotherhood of Carpenters and Joiners, of Derby; of the Central Labor Union of Stamford; of Local Union No. 15, United Hatters of North America, of South Norwalk; of Local Union No. 216, United Brotherhood of Carpenters and Joiners, of Torrington; of the International Molders' Local Union, of Ansonia; of Local Union No. 298, International Molders' Union, of Waterbury; of Local Union No. 30, International Association of Machinists, of Bridgeport; of Local Union No. 282, Cigarmakers' International Union of America, of Bridgeport; and of sundry citizens of Bridgeport, all in the State of Connecticut, praying for the passage of the so-called injunction limitation bill, which were referred to the Committee on the Judiciary.

He also presented a memorial of members of John Hay Lodge, No. 61, Knights of Pythias, of Hartford, Conn., and a memorial of members of Judith Lodge, No. 33, of Hartford, Conn., remonstrating against the enactment of legislation to further restrict immigration, which were ordered to lie on the table.

Mr. PERKINS presented a memorial of the Chamber of Commerce of Los Angeles, Cal., remonstrating against the enactment of legislation providing for a five-year tenure of office for civil-service employees, which was ordered to lie on the table.

He also presented a petition of the Chamber of Commerce of Oakland, Cal., praying for the enactment of legislation to exempt from tolls all American ships passing through the Panama Canal engaged in coastwise traffic, which was ordered to lie on the table.

He also presented resolutions adopted at the Forty-first California Fruit Growers' Convention, held at Santa Barbara, Cal., favoring the enactment of legislation providing for the establishment of a national quarantine against insect pests, which were referred to the Committee on Agriculture and Forestry.

Mr. SMITH of Michigan presented memorials of T. B. Taylor and 67 other citizens of Elwell, of D. Van Kamp and 101 other citizens of Allegan County, of Fred C. Ranchholly and 72 other citizens of Richland Township, of William Tanis and 69 other citizens of Ottawa County, of H. C. Spinchove and 84 other citizens of the eighth congressional district, of B. C. Hubbard and 195 other citizens of Holland, of A. H. Lowry and 89 other citizens of St. Louis, of Joseph E. Craver and 138 other citizens of Ithaca, of J. H. Ter Avest and 67 other citizens of Coopersville, of Titus Van Hartsma and 82 other citizens of the fifth congressional district, of John J. Slag and 125 other citizens of Ottawa County, of Dix H. Beeson and 64 other citizens of Berrien County, of O. P. Gordon and 63 other citizens of Allegan County, of George Robinson and 63 other citizens of Allegan County, of Guy W. Rouse and 180 other citizens of Kent County, of Charles E. Watson and 95 other citizens of Breckenridge, and of H. Coomer and 85 other citizens of Shepard, all in the State of Michigan, remonstrating against any reduction of the duty on sugar, which were referred to the Committee on Finance.

Mr. SHIVELY presented petitions of Local Union No. 5, National Brotherhood of Operative Potters, of Evansville, and of sundry citizens of Marion County, all in the State of Indiana, praying for the passage of the so-called injunction-limitation bill, which were referred to the Committee on the Judiciary.

#### REPORTS OF COMMITTEES.

Mr. JOHNSTON of Alabama, from the Committee on Military Affairs, to which were referred the following bills, submitted adverse reports thereon, which were agreed to and the bills were postponed indefinitely.

S. 5359. A bill providing for the recognition by the United States Government for the men who served as locomotive engineers during the late Civil War (Rept. No. 922);

S. 1380. A bill to authorize the location of a branch home for disabled volunteer soldiers, sailors, and marines in the State of Florida (Rept. No. 923); and

S. 3108. A bill for the relief of George W. Philpott (Rept. No. 924).

Mr. CLAPP. From the Committee on Pacific Islands and Porto Rico, I report back favorably, without amendment, the bill (H. R. 18041) granting franchises for the construction, maintenance, and operation of a street railway system in the district of South Hilo, county of Hawaii, Territory of Hawaii, and I submit a report (No. 925) thereon. I desire to state that it has been impossible to get the committee to meet upon this bill, and the clerk advises me that the favorable report is made upon a poll of the committee.

The PRESIDENT pro tempore. The bill will be placed on the calendar.

Mr. CLAPP. I ask that Order of Business 472, being the bill (H. R. 11628) authorizing John T. McCrosson and associates to construct an irrigation ditch on the Island of Hawaii, Territory of Hawaii, be taken from the calendar and rereferred to the Committee on Pacific Islands and Porto Rico.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CHAMBERLAIN, from the Committee on Military Affairs, to which was referred the bill (S. 1562) for the relief of William Walters, alias Joshua Brown, reported it with an amendment and submitted a report (No. 926) thereon.

Mr. DU PONT, from the Committee on Military Affairs, to which was referred the bill (S. 2518) to provide for raising the volunteer forces of the United States in time of actual or threatened war, reported it with amendments.

Mr. OLIVER, from the Committee on Claims, to which was referred the bill (H. R. 4113) for the relief of Robert E. Burke, reported it without amendment.

He also, from the same committee, to which was referred the bill (S. 3159) for the relief of John W. Cupp, reported adversely thereon, and the bill was postponed indefinitely.

Mr. POMERENE, from the Committee on Pensions, to which was referred the bill (H. R. 25598) granting a pension to Cornelia Bragg, reported it with an amendment and submitted a report (No. 927) thereon.

Mr. BRANDEGEE, from the Committee on the Judiciary, to which was referred the bill (H. R. 17595) to amend sections 1 and 118 of act of March 3, 1911, entitled "An act to codify, revise, and amend the laws relating to the judiciary," reported it with amendments and submitted a report (No. 928) thereon.

JOHN C. SCHOLTZ.

Mr. DU PONT. From the Committee on Military Affairs I report back favorably without amendment the joint resolution (S. J. Res. 119) authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point John C. Scholtz, a citizen of Venezuela, and I submit a report (No. 921) thereon. I ask for the present consideration of the joint resolution.

The PRESIDENT pro tempore. It will be read for the information of the Senate.

The Secretary read the joint resolution.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

Mr. SMOOT. I shall not object to the present consideration of this measure, but I shall object to any further unanimous consent being given for the consideration of a bill this morning.

There being no objection, the joint resolution was considered as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

GIBBES LYKES.

Mr. DU PONT. From the Committee on Military Affairs I report back favorably with an amendment in the nature of a substitute the bill (S. 6176) for the relief of Gibbes Lykes, and I submit a report (No. 920) thereon.

Mr. TILLMAN. I ask for the immediate consideration of the bill just reported by the Senator from Delaware.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment was to strike out all after the enacting clause and insert:

That the President be, and he is hereby, authorized to nominate and, by and with the advice and consent of the Senate, to appoint Gibbes Lykes, late a second lieutenant of Cavalry in the United States Army, to be a second lieutenant of Cavalry in the United States Army, to take



rank at the foot of the list of second lieutenants of Cavalry: *Provided*, That no back pay or allowances shall accrue by reason of the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. STONE:

A bill (S. 7292) granting to the Ozark Power and Water Co. authority to construct a dam across White River, Mo. (with accompanying paper); to the Committee on Commerce.

By Mr. CHAMBERLAIN:

A bill (S. 7293) authorizing the Secretary of the Interior to pay and to distribute the balance now in the Treasury to the credit of the Alsea and other Indians on the Siletz Reservation; to the Committee on Indian Affairs.

By Mr. SMOOT:

A bill (S. 7294) to amend sections 2380 and 2381, Revised Statutes of the United States; to the Committee on Public Lands; and

A bill (S. 7295) to authorize agricultural entries on surplus coal lands in Indian reservations.

The PRESIDENT pro tempore. The bill will be referred to the Committee on Public Lands.

Mr. CLAPP. I suggest that the bill should go to the Committee on Indian Affairs.

The PRESIDENT pro tempore. Does the Senator so move?

Mr. CLAPP. Yes.

The PRESIDENT pro tempore. The Senator from Minnesota moves that the bill be referred to the Committee on Indian Affairs.

The motion was agreed to.

By Mr. SMOOT:

A bill (S. 7296) granting a pension to Elizabeth Garland; to the Committee on Pensions.

By Mr. STEPHENSON:

A bill (S. 7297) for the purchase of a site and the erection thereon of a public building at Mineral Point, Wis.; and

A bill (S. 7298) for the purchase of a site and the erection thereon of a public building at Rhinelander, Wis.; to the Committee on Public Buildings and Grounds.

By Mr. OLIVER:

A bill (S. 7299) to correct the military record of Harrison H. Hollowell (with accompanying papers); to the Committee on Military Affairs.

A bill (S. 7300) granting a pension to Mary A. Moorhead; to the Committee on Pensions.

By Mr. WORKS:

A bill (S. 7301) for the relief of Richard H. Grey; to the Committee on Claims.

By Mr. MYERS:

A bill (S. 7302) to place certain ex-acting assistant surgeons of the United States Army on the retired list of the United States Army; to the Committee on Military Affairs.

By Mr. SIMMONS:

A bill (S. 7303) granting a pension to Emily Wilkie; to the Committee on Pensions.

By Mr. JOHNSON of Maine:

A bill (S. 7304) granting an increase of pension to George N. Townsend (with accompanying paper); to the Committee on Pensions.

By Mr. CATRON:

A bill (S. 7305) granting a pension to Bertie L. Wade; to the Committee on Pensions.

A bill (S. 7306) for the relief of Crestino Romero; and

A bill (S. 7307) for the relief of Manuel S. Salazar; to the Committee on Claims.

By Mr. McLEAN:

A bill (S. 7308) granting an increase of pension to Jennie C. Marks (with accompanying papers);

A bill (S. 7309) granting an increase of pension to Joseph Dunn (with accompanying papers);

A bill (S. 7310) granting an increase of pension to Alice P. B. Kenyon (with accompanying papers);

A bill (S. 7311) granting an increase of pension to Josephine M. Perry (with accompanying papers);

A bill (S. 7312) granting an increase of pension to Margaret E. Goff (with accompanying paper);

A bill (S. 7313) granting an increase of pension to Oscar B. Viberts (with accompanying papers); and

A bill (S. 7314) granting an increase of pension to Thomas McKenna (with accompanying papers); to the Committee on Pensions.

By Mr. BORAH:

A bill (S. 7315) to authorize the construction of a bridge across the Clearwater River at any point within the corporate limits of the city of Lewiston, Idaho; to the Committee on Commerce.

A bill (S. 7316) relating to proof by certain homestead entrymen; to the Committee on Public Lands.

#### PATENT LAWS.

Mr. CULLOM submitted an amendment intended to be proposed by him to the bill (S. 6273) to codify, revise, and amend the laws relating to patents, which was referred to the Committee on Patents and ordered to be printed.

#### CLAIMS OF GOVERNMENT EMPLOYEES.

Mr. WORKS submitted an amendment intended to be proposed by him to the bill (H. R. 23451) to pay certain employees of the Government for injuries received while in the discharge of their duties, and other claims for damages to and loss of private property, which was referred to the Committee on Claims and ordered to be printed.

#### OMNIBUS CLAIMS BILL.

Mr. CATRON submitted an amendment intended to be proposed by him to the bill (H. R. 19115) making appropriation for payment of certain claims in accordance with findings of the Court of Claims, reported under the provisions of the acts approved March 3, 1883, and March 3, 1887, and commonly known as the Bowman and the Tucker Acts, which was ordered to lie on the table and to be printed.

#### AMENDMENTS TO SUNDRY CIVIL APPROPRIATION BILL (H. R. 25069).

Mr. SWANSON submitted an amendment proposing to appropriate \$80,000 for additional equipment and supplies for the Geological Survey photolithographic plant, etc., intended to be proposed by him to the sundry civil appropriation bill, which was referred to the Committee on Printing and ordered to be printed.

Mr. FALL submitted an amendment relative to surveying the public lands, intended to be proposed by him to the sundry civil appropriation bill, which was ordered to lie on the table and be printed.

#### MAXIMUM SHIP FOR NAVY.

Mr. TILLMAN. I submit a resolution and ask for its present consideration.

The resolution (S. Res. 361) was read, considered by unanimous consent, and agreed to, as follows:

*Resolved*, That the Committee on Naval Affairs be, and it is hereby, instructed to investigate and report to the Senate what is the maximum size of ship, whether battleship or cruiser; the maximum thickness of armor that such ship can safely carry; the maximum size of gun; the maximum speed; and the maximum desirable radius of action of such vessel that can safely be built so as to navigate the ocean and enter the first-class harbors of the world; how much draft can such vessel carry in order to enter the existing dry docks in this country for repairs and safely pass through the Panama Canal, the object being to find out from authentic and reliable official sources the maximum size and maximum draft, the maximum armament, and the maximum thickness of armor to make the very best battleship or cruiser that the world has ever seen or will ever see; to have this country own the greatest marine engine of war ever constructed or ever to be constructed under known conditions; and to report whether one such overpowering vessel would not in its judgment be better for this country to build than to continue by increasing taxation to spend the millions and millions of dollars now in prospect in the race for naval supremacy. Let such vessel be named the "Terror" and become the peacemaker of the world. Let us find out just how far we can go with any degree of safety and go there at once. Let us leave some money in the Treasury for other more necessary and useful expenditures, such as good roads, controlling the floods in the Mississippi, draining swamp land in the South, and irrigating the arid land in the West.

#### LOYALTY OF CIVIL WAR CLAIMANTS.

Mr. JOHNSTON of Alabama. Mr. President, I ask to have printed in the Record so much of a decision of the Court of Claims as defines the jurisdiction of the court conferred by the fourteenth section of the Tucker Act; also the proclamation of amnesty of December 25, 1868, by the President of the United States, and the two decisions of the Supreme Court of the United States reported in the case of *Armstrong v. The United States* and *Pargoud v. United States* in Thirteenth Wallace, at pages 155 and 156, in order to bring before the Senate the question whether the rule adopted by the Committee on Claims of the Senate, namely, "To allow no claim whatever wherein there is any question as to the loyalty of the claimant as determined by the court," and in the enforcement of which rule the committee has excluded from the bill H. R. 19115, and other bills of the same nature, the names of all such claimants for payment in accordance with findings of the Court of Claims, made and reported by said court in pursuance to sec-

tion 14 of the Tucker Act, is not an avoidance by that committee of the provisions of that section as construed by the Court of Claims in said decision, and a denial of the constitutional rights of such claimants as restored and reestablished by said proclamation, subsequently recognized and confirmed by the Supreme Court of the United States in said decisions.

The following is from the opinion of the Court of Claims in the case of Dowdy, Ex., v. The United States (26 Ct. of Cls., p. 223):

This (the fourteenth) section of the Tucker Act is not an amendment of the Bowman Act, and the jurisdiction conferred by the one is an independent and distinct thing from the jurisdiction conferred by the other.

Under the Tucker Act any bill may be referred, "except for a pension," and there is no other restriction upon the jurisdiction of the court. A claim for the destruction of property by the Army, a claim for the occupation of real estate at the seat of war, a claim barred by a law of Congress, and a claim for quartermaster's stores, where the owner has given aid and comfort to the rebellion, are all within the jurisdiction of the court for the purpose of investigating and reporting the facts, if properly referred under the fourteenth section.

The proclamation of the President of December 25, 1868 (15 Stat., 711), is as follows:

Whereas the President of the United States has heretofore set forth several proclamations, offering amnesty and pardon to persons who have been or were concerned in the late rebellion against the lawful authorities of the Government of the United States, which proclamations were severally issued on the 8th day of December, 1863, on the 26th day of March, 1864, on the 20th day of May, 1865, on the 7th day of September, 1867, and on the 4th day of July in the present year; and

Whereas the authority of the Federal Government having been established in all the States and Territories within the jurisdiction of the United States, it is believed that such prudential reservations and exceptions as at the dates of said several proclamations were deemed necessary and proper may now be wisely and justly relinquished, and that a universal amnesty and pardon for participation in said rebellion, extended to all who have borne any part therein, will tend to secure permanent peace, order, and prosperity throughout the land and to renew and fully restore confidence and fraternal feeling among the whole people and their respect for and attachment to the National Government designed by its patriotic founders for the general good:

Now, therefore be it known that I, Andrew Johnson, President of the United States, by virtue of the power and authority in me vested by the Constitution, and in the name of the sovereign people of the United States, do hereby proclaim and declare, unconditionally and without reservation to all and to every person who directly or indirectly participated in the late insurrection or rebellion, a full pardon and amnesty for the offense of treason against the United States, or of adhering to their enemies during the late Civil War, with restoration of all rights, privileges, and immunities under the Constitution and the laws which have been made in pursuance thereof.

In testimony whereof I have signed these presents with my hand and have caused the seal of the United States to be hereunto affixed.

Done at the city of Washington the 25th day of December, 1868, and of the Independence of the United States of America the ninety-third.

ANDREW JOHNSON.

By the President:  
F. W. SEWARD,  
Acting Secretary of State.

The opinion of the court in the said case of *Armstrong v. The United States* is as follows:

The abandoned and captured property act provides for the restoration of the proceeds of property on proof that the claimant has never given any aid or comfort to the present rebellion. The Court of Claims seems to have thought that going South with her slaves was evidence that she did give aid or comfort to the rebellion. On this point it is not now necessary that we express an opinion; for the President of the United States on the 25th of December, 1868, issued a proclamation, reciting that "a universal amnesty and pardon for participation in said rebellion, extended to all who have borne any part therein, will tend to secure permanent peace, order, and prosperity throughout the land, and to renew and fully restore confidence and fraternal feeling among the whole people, and their respect for and attachment to the National Government, designed by its patriotic founders for the general good"; and granting "unconditionally, and without reservation, to all and every person who directly or indirectly participated in the late insurrection or rebellion, a full pardon and amnesty for the offense of treason against the United States, or of adhering to their enemies during the late Civil War, with restoration of all rights, privileges, and immunities under the Constitution and the laws which have been made in pursuance thereof."

We have recently held, in the case of the United States v. Klein, that pardon granted upon condition blots out the offense if proof is made of compliance with the condition; and that the person so pardoned is entitled to the restoration of the proceeds of captured and abandoned property if suits be brought within "two years after the suppression of the rebellion." The proclamation of the 25th of December granted pardon unconditionally and without reservation. This was a public act of which all courts of the United States are bound to take notice, and to which all courts are bound to give effect. The claim of the petitioner was preferred within two years. The Court of Claims therefore erred in not giving the petitioner the benefit of the proclamation.

Its judgment must be reversed with directions to proceed in conformity with this opinion.

The opinion of the court in the said case of *Pargoud v. The United States* is as follows:

We have recently decided in the case of *Armstrong v. The United States* that the President's proclamation of December 25, 1868, granting pardon and amnesty unconditionally and without reservation to all who participated, directly or indirectly, in the late rebellion, relieved claimants of captured and abandoned property from proof of adhesion

to the United States during the late Civil War. It was unnecessary, therefore, to prove such adhesion or personal pardon for taking part in the rebellion against the United States.

The judgment of the Court of Claims dismissing the petition is reversed.

#### PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. Latta, executive clerk, announced that the President had, on July 16, 1912, approved and signed the following act:

S. 5271. An act to confer concurrent jurisdiction on the police court of the District of Columbia in certain cases.

#### COLVILLE INDIAN RESERVATION.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 338) authorizing the sale of certain lands in the Colville Indian Reservation to the town of Okanogan, State of Washington, for public park purposes, which was, on page 1, line 3, to strike out "there is hereby granted and conveyed" and insert "the Secretary of the Interior is hereby authorized and directed to convey."

Mr. PAGE. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

#### ASSIGNMENTS OF DESERT-LAND ENTRIES.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 5446) relating to partial assignments of desert-land entries within reclamation projects made since March 28, 1908, which was, on page 2, line 3, to strike out "may" and insert "shall."

Mr. JONES. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

#### UINTAH INDIAN RESERVATION.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 6934) to provide an extension of time for submission of proof by homesteaders on the Uintah Indian Reservation, which was, on page 2, after line 5, to insert:

SEC. 2. That nothing herein contained shall affect any valid adverse claim initiated prior to the passage of this act.

Mr. SMOOT. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

#### LAND AT SALT LAKE CITY, UTAH.

The PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 7002) to authorize the Secretary of the Interior to grant to Salt Lake City, Utah, a right of way over certain public lands for reservoir purposes, which was, on page 2, line 3, to strike out "Thirty-fifth" and insert "Twenty-fifth."

Mr. SMOOT. I move that the Senate concur in the House amendment.

The motion was agreed to.

#### HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Public Lands:

H. R. 4012. An act to authorize the exchange of certain lands with the State of Michigan;

H. R. 19339. An act granting public lands to the cities of Boulder and Canon City, in the State of Colorado, for public-park purposes; and

H. R. 23293. An act for the protection of the water supply of the city of Colorado Springs and the town of Manitou, Colo.

H. R. 23568. An act to amend section 55 of "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909, was read twice by its title and referred to the Committee on Patents.

#### PENSIONS AND INCREASE OF PENSIONS.

Mr. CUMMINS. I ask unanimous consent for the present consideration of the joint resolution (S. J. Res. 92) providing for the purchase of the home of Thomas Jefferson at Monticello, Va.

The PRESIDENT pro tempore. Will the Senator from Iowa kindly permit the Chair to call attention to the message from the House that was laid before the Senate yesterday? The Senator from North Dakota [Mr. McCUMBER] desires to make a motion concerning it.

Mr. CUMMINS. Very well.

The PRESIDENT pro tempore. The Chair lays before the Senate a message from the House, which will be read.



The Secretary read as follows:

IN THE HOUSE OF REPRESENTATIVES,  
July 8, 1912.

*Resolved*, That the Clerk be directed to return to the Senate, in compliance with its request, Senate bill 6084, granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and to certain widows and dependent relatives of such soldiers and sailors.

Mr. McCUMBER. I move to reconsider the vote by which the Senate disagreed to the amendments of the House and requested a conference.

The motion to reconsider was agreed to.

Mr. McCUMBER. I now move that the Senate concur in the House amendments.

The motion was agreed to.

Mr. STONE. Mr. President, I make the point that there is no quorum.

The PRESIDENT pro tempore. The Senator from Missouri raises the point that there is no quorum present, and the roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Cullom	Jones	Paynter
Bacon	Cummings	Kenyon	Perkins
Bailey	Dillingham	Lodge	Pomerene
Bradley	du Pont	McCumber	Simmons
Brandeggee	Fall	McLean	Smith, Ga.
Bristow	Fletcher	Martine, N. J.	Stephenson
Bryan	Gallinger	Massey	Stone
Chamberlain	Gamble	Myers	Thornton
Clapp	Gronna	Newlands	Tillman
Clark, Wyo.	Guggenheim	O'Gorman	Townsend
Clarke, Ark.	Heyburn	Oliver	Warren
Crane	Hitchcock	Overman	Wetmore
Crawford	Johnson, Me.	Page	Works
Culberson	Johnston, Ala.		

Mr. THORNTON. I desire to announce the necessary absence of my colleague [Mr. FOSTER], and I ask that this announcement stand for the day.

The PRESIDENT pro tempore. Fifty-five Senators have answered to their names. A quorum of the Senate is present.

Mr. ASHURST. Mr. President, on the 27th of last June I gave notice, at the time I introduced Senate bill No. 7204, that on this morning, immediately after the morning business, I would submit a few remarks in reference to that bill. I now simply desire to inquire has morning business closed.

The PRESIDENT pro tempore. Morning business has closed, but the Senator from Iowa [Mr. CUMMINS] was recognized. He has asked for the consideration of Senate joint resolution No. 92. Will the Senator from Arizona yield to the Senator from Iowa for that purpose?

Mr. ASHURST. Very cheerfully.

#### PURCHASE OF MONTICELLO.

Mr. CUMMINS. I ask unanimous consent for the present consideration of the joint resolution (S. J. Res. 92) providing for the purchase of the home of Thomas Jefferson at Monticello, Va.

Mr. CLAPP. Mr. President, I do not object to the consideration of this joint resolution, but I shall feel constrained to object to any further request of this character, in view of the appropriation bills now before the Senate.

The PRESIDENT pro tempore. The joint resolution will be read for the information of the Senate.

The Secretary read the joint resolution, as follows:

Whereas the Declaration of Independence was a new light and gospel to the downtrodden of the world; and

Whereas through the genius, splendid patriotism, and teachings of Thomas Jefferson, America was started on a career that has brought untold blessings to this country; and believing it most fitting and proper that the home of Thomas Jefferson at Monticello should be the property of the great Nation and country he loved and served so well: Therefore be it

*Resolved, etc.*, That the President of the Senate of the United States be, and is hereby, instructed to appoint a committee of five Members of this body, to cooperate with a similar committee to be appointed by the House of Representatives, to inquire into the wisdom and ascertain the price of acquiring said home as the property of the United States, that it may be preserved for all time in its entirety for the American people.

Mr. BAILEY. I suggest to the Senator from Iowa that where the joint resolution reads "the price of acquiring said home" that it should read "the cost of acquiring," and so forth.

Mr. CUMMINS. I think that is a wise suggestion, and I am quite willing to accept it.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

Mr. HEYBURN. I ask that the joint resolution go over, Mr. President.

The PRESIDENT pro tempore. The Senator from Idaho objects.

Mr. CUMMINS. May I suggest to the Senator from Idaho that the joint resolution itself provides only for the appointment of five Senators and five Members of the other House as a committee. I think the Senator must possibly found his objection upon the preamble, which the committee should have stricken and intended to strike out; and I shall be very glad to offer an amendment striking out the preamble.

Mr. HEYBURN. The Senator from Iowa has exactly stated my objection. The statement contained in a preamble very often attempts to interpret legislation. A man might be perfectly willing to vote for a joint resolution, but he might not be willing to subscribe to a doctrine stated in the nature of a preamble.

Mr. BAILEY. Well, vote against it.

Mr. HEYBURN. But if the preamble is stricken out, my objection would be withdrawn. I do not subscribe to the preamble.

Mr. BAILEY. The Senator from Idaho does not commit himself to it by withholding the objection and allowing the Senate to vote on the joint resolution. The Senator could vote against it, and I have no doubt would do so, if he objects to any part of the joint resolution.

Mr. HEYBURN. I would not want to be placed in the position of voting against the joint resolution.

Mr. BAILEY. The Senator's statement is in the Record, and there would be no trouble about it.

Mr. CUMMINS. If the Senator from Texas will allow me a moment. The part of the preamble that ought not to be there is the part that commits Congress to the purchase of the estate. That is the very thing to be hereafter determined. Therefore I believe it to be very wise to allow the preamble to be stricken out.

Mr. BAILEY. Very well.

Mr. HEYBURN. I ask for the reading of the entire joint resolution.

The PRESIDENT pro tempore. The joint resolution will again be read.

The Secretary again read the joint resolution.

Mr. HEYBURN. Mr. President, I was right in my first impression. It is the preamble that I object to. It recites statements that I do not concur in—that is to say, I would not responsibly concede that Thomas Jefferson wrote the Declaration of Independence or that he was in any way responsible for it. He was merely the secretary of a committee that prepared it.

Mr. BAILEY. He was the chairman of the committee, and it is in his own handwriting.

Mr. HEYBURN. Well, I have many things, perhaps with not so much merit, that are in my clerk's handwriting, and yet I would not like to see them attributed to the wisdom of my clerk. We all know the history of the Declaration of Independence. I have a large share of admiration for Thomas Jefferson for what he really did, but I do not think it is necessary to build up any fiction about it. I presume I have had access, and have given study to everything that has been available to any other Member of this body, and I would not detract a word from him; neither would I deify him because of something that he did not do.

I know that he has been set up as the patron saint, when he is convenient, for a great political party, and that whenever they desire to use something on the authority of ancient records, they bring out Thomas Jefferson. He is about as well bronzed and moss covered as any other statesman who could be found. I would not stand here—

Mr. BACON. Mr. President—

Mr. HEYBURN. Just a moment. I would not stand here and detract in the slightest degree from him, first, out of consideration for the feelings of my friends—and I regard every man in the body as my friend whether he regards me as such or not—but I do not desire to be carried away upon the wings of sentiment. I do not desire to enter into a discussion of the merits of Thomas Jefferson. I only protest at this time against stating as an established fact that he is the author of the Government of the United States. He took no part in framing or in making the Government of the United States. He was not even on this continent when the Government of the United States was organized and framed; and, if history is correct, he was not in sympathy at all—

Mr. O'GORMAN. Mr. President—

Mr. HEYBURN. I will yield in a moment. I am not physically able to enter into a controversy this morning.

Mr. BACON. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Georgia?

Mr. HEYBURN. I should like very much to yield, but I am not physically able to enter into a controversy. I am, how-

ever, able to record my views, and then let them stand for such treatment as Senators may see fit to give them now or later. I merely want to state my views against a declaration on the part of the Senate, which will doubtless be unanimous if it is made at all, that Thomas Jefferson was the founder of this Government or that he was the author of the Constitution of the United States or that he was the author of the Declaration of Independence. There are too many interlineations in the hand of good old Benjamin Franklin in that document to be overlooked. It was the result of the conference of a number of men.

Mr. BACON. If the Senator will permit me—

Mr. HEYBURN. Just a moment. I would gladly yield, and would even be pleased to enter into a conservative—

Mr. ASHURST. Mr. President—

Mr. HEYBURN. Now, I would say, if Senators who are seeking to interrupt will pardon me, that I am not physically able this morning to enter into any discussion. It is as much as I can do to state my reasons for asking that the matter go over. At another day, when the question comes up, if it ever does, and I am feeling equal to it, I would be very pleased to discuss this question, but at this time I am merely trying to state for the Record the reasons why I interpose this objection, which is well within my rights.

The Senator from Texas [Mr. BAILEY] has given notice that this morning he is going to discuss just such rights as I am undertaking to exercise now. I never welcomed the discussion of a question with more hearty accord than I do that which is to be undertaken by the Senator from Texas this morning. It is one that I have lived with and have grieved over for weeks and years.

Mr. ASHURST. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho object to the present consideration of the joint resolution?

Mr. HEYBURN. Mr. President, I was doing more; I was, with the ordinary privilege of a Senator, stating my objection. I am not going to discuss it at length, but I would ask the permission of the Senate to finish my remarks.

The PRESIDENT pro tempore. The Senator from Idaho objects to the present consideration of the joint resolution.

Mr. BACON. Mr. President, does the Senator from Idaho object to a word being said on the subject? I merely want to say one word.

Mr. HEYBURN. I can not understand—

Mr. BACON. I do not propose to engage the Senator in any discussion.

Mr. HEYBURN. Now, if the Senator will be just as patient as he can—

Mr. ASHURST. Mr. President—

Mr. HEYBURN. Unless the Chair takes me off the floor, I shall object to being taken off by another Senator.

Mr. ASHURST. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Arizona?

Mr. HEYBURN. I will not yield, unless the Chair takes me off the floor.

Mr. ASHURST. The Senator from Idaho has not the floor; he does not hold it except through the courtesy of the Senator from Arizona. I yielded to the Senator from Iowa [Mr. CUMMINS] with the understanding that the matter which he desired to present would lead to no discussion, and he yielded to the Senator from Idaho, but I very cheerfully yield to the distinguished Senator from Idaho.

Mr. HEYBURN. I do not desire to occupy the floor under any such conditions. The joint resolution came up, and the question was whether or not there was objection, and I raised the objection. I am not on the floor by the grace of any other Senator; I am here by the courtesy of the Presiding Officer, with the right of the Senate always to direct the course of the Presiding Officer, and without any intention of going at length into the question. I desire that there shall be no mistake to be gathered from the Record hereafter as to the nature of my objection. I am glad to have had the opportunity to have been able to reenter the Senate just as this question came up; and I am confining myself merely to stating the grounds of my objection in order that I may not be charged with churlishness or sectionalism or partisanship. You can charge a good bit of it—the last part of it—to partisanship, because I am a partisan politician, but I never feel called on to apologize for that. I think the man who does feel called on to apologize for it should apologize for being in public life at all.

Now, Mr. President, that is the extent of my objection. I asked that the joint resolution go over, in order that I might state those reasons. Having stated them, I will now withdraw my objection and let the Senate do as it pleases with the matter.

The PRESIDENT pro tempore. Is there objection to the present consideration of the joint resolution?

Mr. CULBERSON. Mr. President, I have no objection to the consideration of the joint resolution, of course, but I call the attention of the Senator from Iowa to the fact that while this is a joint resolution, it proposes to appoint a committee of the Senate alone. I make this inquiry—

Mr. CUMMINS. Mr. President, it is not my resolution; it is a resolution reported by the Committee on the Library, and I do not feel authorized to change it in that respect.

Mr. MARTINE of New Jersey. I offered that joint resolution, Mr. President, and I am willing to change it in any way that may be necessary to make it effective. I regret that the distinguished Senator from Idaho can not indorse the preamble. God knows I can not see anything in the preamble that should harm the Senate or any individual; and I am vain enough to believe, in view of the unfortunate physical condition of the Senator from Idaho, that if he would just gushingly and willingly vote for that preamble it would restore him to better health. I have no purpose of infusing or injecting any politics into it at all.

Mr. HEYBURN. I was unable to understand the remarks of the Senator in connection with my name, because—

Mr. MARTINE of New Jersey. I thought I spoke loud enough. The Senator referred to the fact that he was not feeling well, and I simply said that I believed anyone voting for the joint resolution, with the sentiments embodied in the preamble, would advance his well-being.

I had no thought in introducing the joint resolution with reference to Democracy. I merely took into consideration the fact that Thomas Jefferson was the author of the Declaration of Independence and that he is believed to be by the masses of the people of the United States one of its great sons. I am quite anxious to do him honor and at the same time give the people the benefit of his home as a shrine.

Mr. CUMMINS. Mr. President, I feel we are violating the arrangement under which I asked for the consent, and I therefore withdraw it rather than to provoke any further discussion.

#### DESERT-LAND ENTRIES.

Mr. ASHURST. Mr. President, a sense of duty and propriety as well impel me to be very brief, and I shall be, in submitting the few remarks that I shall make. I ask the Secretary to read for the information of the Senate the bill (S. 7204) to exempt from cancellation and provide for patenting of desert-land entries reclaimed by dry-farming process.

The PRESIDENT pro tempore. The Secretary will read as requested.

The Secretary read the bill, as follows:

*Be it enacted, etc.,* That no desert-land entry heretofore made under the public-land laws, for lands, shall be canceled or in any wise impaired because of any failure on the part of the entryman to make any annual or final proof falling due upon any such entry prior to December 31, 1913: *Provided, however,* That patent shall be permitted to issue to any desert-land entry when the proofs disclose that the land embraced within such entry has fairly and in good faith been reclaimed to agricultural or horticultural crops by the dry-farming process.

Mr. ASHURST. Mr. President, it will be observed that this bill, if enacted into a law, will enable those settlers who have made desert entries to procure patent when they shall have in good faith reclaimed to agricultural or horticultural crops the land embraced within their entry.

There exists no substantial reason why this bill should not become a law. The object of the law authorizing desert entries is the reclamation of the land. For all practical purposes it should be of no concern as to the particular manner in which lands are reclaimed, so long as they actually be reclaimed. It is unfair to subject the desert entryman to a Procrustean bed of fixity, and in effect to tell him, as the present law does, that, no matter what success he may achieve, no matter how bountiful be the crops he may grow upon his land by dry-farming or other process, he may obtain title by reclaiming the lands by irrigation only.

The character of the land always varies, and the home builder should be afforded every reasonable opportunity to have the advantage of the variations. Some tracts of land are susceptible of reclamation by irrigation only, and of course the reverse is true respecting different lands.

Irrigation was practiced by the early people on the banks of the Nile, the Tigris, and the Euphrates. Irrigation was also practiced by the aborigines of South America before and at the time of the Spanish conquests.

Numerous places in Arizona bear indisputable evidence of the fact that the skillful engineers of ancient Arizona watered its fertile fields from concrete-lined aqueducts and giant irrigation dams centuries before Montezuma ascended the throne of the Aztecs.



But irrigation in the present age upon the North American Continent dates from the settlement on the Jordan River in Utah by those heroic pioneers, the Mormons.

The early irrigation enterprises consisted of damming the rivers and streams, conveying their waters by ditches and laterals, and distributing it over the land. This method gave rise to water rights and vested interests in the use of the water. In the old and established communities such rights have become very valuable. Later storage dams were constructed, and irrigation in some places has become more and more complex and expensive.

The Government is now, with eminent success, reclaiming vast tracts by constructing immense projects, and the lands under cultivation have become extremely valuable and the field for irrigation greatly enlarged.

It will thus be observed that irrigation is the most ancient and the most feasible method of reclaiming land, but it is not the exclusive method, for many tracts of land may be reclaimed by dry farming only.

Dry farming may be defined to mean the conservation and economical use in farming of a scant rainfall which is variable in point of time.

#### DRY FARMING.

The production of crops without irrigation in regions having a limited rainfall is called arid or dry farming. As a rule, where dry farming is practiced the annual rainfall ranges from about 8 to 20 inches. There are vast semiarid areas in the West which can not be brought under irrigation, and this method of farming is an attempt to utilize some of these lands for other agricultural purposes than mere grazing.

Farming without irrigation was practiced in numerous localities by the early settlers, and while in many cases these efforts were successful in many more they were failures. They demonstrated, however, that under certain conditions dry-land agriculture may be successfully practiced. The experience gained during the last 30 or 40 years and the results of the recent work in this connection carried on by several experiment stations and other agencies indicate that by means of special methods of cultivation, requiring in some instances special tools and implements, and by the use of drought-resistant crops and varieties arid farming may be placed on a much safer basis than heretofore. The fact should not be disregarded, however, that under semiarid conditions without irrigation crop failures are bound to be much more frequent than in regions of adequate rainfall, and it is generally conceded that in order to establish a permanent home on the dry lands of the western plains provision should be made for the irrigation of a small area on which vegetable food for the family and forage for the stock may be grown with certainty every year to tide over the seasons of possible failures on the unirrigated portion of the farm. (Farmers' Bulletin 262, p. 15.)

Last September I attended the agricultural and horticultural fair held in Willcox, in Cochise County, Ariz., where were exhibited products that were raised by dry farming in the Sulphur Springs Valley, and the exhibits there were sufficient to convince the most skeptical that dry farming may be made a success in that valley.

I ask permission at this point to incorporate into the RECORD as a part of my remarks an article by Prof. R. H. Forbes, who has for the past 12 years been superintendent of the agricultural experiment station at the University of Arizona.

The article referred to is as follows:

#### DRY FARMING IN SULPHUR SPRINGS VALLEY.

The first essential step in dry farming operations is to plow the ground deeply in order that the soil surface may be made receptive to rainfall. In many localities it is necessary for best results to subsoil to a depth of as much as 30 inches in order to break up the hard layer of soil often to be found beneath the surface in this region. With the soil thus prepared, the rainfall will sink rapidly to a depth of from a few inches to a few feet, according to its amount.

The second important thing is to prevent the evaporation of this rainfall after it has been received into the soil. This is accomplished by cultivating the surface of dry-farmed fields after each rain. The mulch of pulverized soil thus maintained on the field acts as a protecting blanket, which prevents the moisture from the deeper inches or feet of soil from evaporating at the surface.

A third important matter is the selection of crops which are especially suitable to our climatic conditions and to dry-farming methods of agriculture. There are many crop plants, such as milo, maize, kafir corn, sorghum, native varieties of maize and beans, together with such vegetable crops as melons and squashes, which do well under our climatic conditions. These crops, at the proper time of year, are planted down to soil moisture and then covered deeply with the surface mulch. The young plants will come up through a surprising depth of this mulch—as much as 6 or 8 inches in the case of corn—and if the ground-water supply is sufficient, and especially if the summer rains are favorable, a crop thus started may be brought to maturity.

Looking to the future of dry farming in Sulphur Springs Valley, it might be well to call attention to the fact that the French in North Africa are at present growing crops of corn, wheat, the vine, grasses, sorghum, and olives on lands receiving from 10 to 16 inches of rainfall per annum. The French employ thorough cultural methods and are especially skillful in the choice of varieties of crop plants suited to semiarid conditions. Recent crop statistics from Algeria state that the average yield of wheat thus grown is 10 bushels per acre; of wine, 1,000 gallons; and of corn, 8 bushels per acre.

Mr. President, I ask unanimous consent that I may include in the RECORD, as an appendix and as a part of my remarks, a few data on dry farming prepared by the head of the dry-farming bureau of the Brazilian Government at Rio Janeiro; also a communication on this same subject addressed to me by Mr. Malcolm A. Fraser, secretary of the Chamber of Commerce of

Prescott, Ariz. I ask permission further at this point to include in the RECORD as a part of my remarks, as an appendix thereto, a portion of the report, No. 413, made by the House Committee on Public Lands relating to the three-year homestead law.

The PRESIDENT pro tempore. Without objection, the matter referred to will be inserted as an appendix.

Mr. ASHURST. Mr. President, I have now said all I wish to say directly upon this bill, but with the kind permission of the Senate, I desire to submit some observations upon the present policy obtaining in Washington, which unfortunately has been adopted respecting the pioneers, producers, and home builders of the West; in other words, I embrace this opportunity not only to protest against some of the harsh, narrow, and in many instances unfair ways in which the land laws have been enforced, but to do my full duty toward pointing out that Congress has been remiss in enacting progressive laws necessary to keep abreast with the times.

Mr. President, much of the trouble has arisen because the departments are trying to execute these harsh laws as they find them. It is the duty of the Secretary of the Interior to enforce the law as he finds it written. It would be grossly unjust to lay upon the honorable Secretary of the Interior or the Forestry Department all the blame, or even a large part of the blame, for the evil results flowing from the present reactionary policy that is being pursued toward the West. The blame lies upon Congress, and any relief to be obtained must be obtained by legislation instead of by administration. I am, however, wholly and totally at variance with the present practice which, to my astonishment, I find exists here and permits the head of a department to give his opinion as to what should or what should not be the law. Departments when called upon for reports and for facts should state facts, not conclusions.

Congress should not permit the mere ipse dixit of a department to defeat wholesome laws.

It is the duty of the National Legislature to make the laws, and the House of Representatives with over 400 Members, and the Senate with 96 Senators, representing every State, are presumed to be and, in fact, are more thoroughly conversant with the needs and requirements of the country than any departmental clerk, bureau chief, or department in Washington. And I believe the relief, if any is to come, must be obtained not through the departments, but through that coordinate branch of the Government to which is delegated by the Constitution the power of making laws—the Congress.

Mr. James Bryce, the British ambassador, profound student of political and national economics, eminent publisher and author of that monumental work, *The American Commonwealth*, published first in 1888, in a certain chapter of his great book spoke of the temper of the West as follows:

Western America is one of the most interesting subjects of study the modern world has seen. There has been nothing in the past resembling its growth and probably there will be nothing in the future. A vast territory, wonderfully rich in natural resources of many kinds; a temperate and healthy climate; a soil generally and in many places marvelously fertile; in some regions mountains full of minerals, in others trackless forests where every tree is over 200 feet high; and the whole of this virtually unoccupied territory thrown open to a vigorous race, with all the appliances and contrivances of modern science at its command—these are phenomena absolutely without precedent in history and which can not recur elsewhere, because our planet contains no such other favored tract of country.

The details of this development and the statistics that illustrate it have been too often set forth to need restatement here. It is of the character and the temper of the people who have conducted it that I wish to speak, a matter which has received less attention, but is essential to a just conception of the Americans of to-day. For the West is the most American part of America; that is to say, the part where those features which distinguish America from Europe come out in the strongest relief. What Europe is to Asia, what England is to the rest of Europe, what America is to England, that the Western States are to the Atlantic States. \* \* \* It is the most enterprising and unsettled Americans that come West; and when they have left their old haunts, broken their old ties, resigned the comfort and pleasure of their former homes, they are resolved to obtain the wealth and success for which they have come. They throw themselves into the work with a feverish yet sustained intensity. They rise early, they work all day, they have few pleasures, few opportunities for relaxation. All the passionate eagerness, all the strenuous effort of the Westerners is directed toward the material development of the country. To open the greatest number of mines and extract the greatest quantity of ore, to scatter cattle over a thousand hills, to turn the flower-spangled prairies into wheat fields, to cover the sunny slopes of the Southwest with vines and olives—this is the end and aim of their lives. \* \* \* The passion is so absorbing and so covers the horizon of public as well as private life that it ceases to be selfish, it takes from its very vastness a tinge of idealism. To have an immense production of exchangeable commodities, to force from nature the most she can be made to yield and send it East and West by the cheapest routes to the dearest markets, making one's city a center of trade and raising the price of its real estate—this, which might not have seemed a glorious consummation to Isaiah or Plato, is preached by western newspapers as a kind of religion. It is not really, or at least it is not wholly, sordid. These people are intoxicated by the majestic scale of the nature in which their lot is cast, enormous mineral deposits, boundless prairies, forests which \* \* \* will supply timber to the United States for centuries; a soil which, with the rudest cultivation, yields the most abundant crops, a populous continent for their market.



But now, in 1912, all is changed. That the temper of the people of the West is still the same is quite true. They are still the same brave, resolute, virtuous, liberty-loving, and God-obeying people. The western climate still possesses its salubrity, and the western soil is yet fertile. The mountains and canyons are, as in the days of '49, rich in minerals, but a policy of retrogression and stagnation has been adopted at this Capitol, a policy which declares that money—metals—are of more value to mankind hidden away in the earth than they are when circulating in the channels of trade; a policy which declares that Government land is "wasted" when the settler goes out upon the almost measureless immensity of the desert and by the sweat of his face and by incessant toil causes two orange trees to grow where one giant cactus grew before; a policy so reactionary that in effect it declares that iron is of more utility hidden in the earth than when used for structural purposes or for rails over which to transport the commerce of the Nation; a policy so reactionary that it withdraws all coal and oil lands from entry, thereby allowing the Government to become an accessory before the fact in assisting the Coal Trust and the Oil Trust to retain their crushing and devastating monopoly; a policy so reactionary that in effect it declares that lead and tin, copper, manganese, and other metals are more valuable to the family of men if kept securely in the vaults where primordial chaos locked them than if brought by sturdy miners to earth's surface and used in constructing the mechanical contrivances and ingenious electrical appliances which civilization now demands; a policy which in effect declares that native grasses are "conserved" when permitted to dissipate their nutrition in earth and in air, but are "wasted" when eaten by cattle whose flesh gives food and whose hide furnishes leather for man's use, or by sheep whose flesh gives food and whose wool gives warmth to mankind.

It is proper at this juncture to inquire what are the injustices that are being committed by these policies now in vogue in Washington, and it is pertinent further to inquire what are these abuses?

The recent very able and exhaustive debate, especially the speech of the distinguished Senator from Idaho [Mr. BORAH], upon the three-year homestead law, relieves me from the necessity of pointing out at length or in any great detail the iniquity of the "red tape" and "house that Jack built" methods of the department, against which I now inveigh.

The distinguished Senator from Montana, Mr. Carter, a statesman of vast experience, whose memory the West honors, speaking in the Senate on the 30th of January, 1907, and pointing out the hardships to which these departmental rulings subjected the settlers, said *inter alia* respecting the difficulties which attended the homesteader in attempting to secure title to the land embraced within his entry:

In actual practice the register and receiver of the local land office deliver to the claimant a final receipt on submission of the required proof and the payment of the statutory fees. The land thereupon becomes subject to taxation and the receipt is held by the State courts sufficient evidence of legal title to sustain an action of ejectment. The final receipt, held by the courts and always regarded heretofore as the equivalent of the patent, soon to follow from Washington, is accepted joyously by the man through whose patience, industry, and self-sacrifice it has been won. The family is now secure in its well-earned home, and the future looks brighter and better. The credit formerly withheld will now be extended to enable the struggling toiler to buy a few cattle or other needed stock to make the farm more profitable and the labor less exacting. The good wife and children may now hope to enjoy a few of the long-deferred comforts of life so much needed in and about their humble home.

The accumulated capital of years of patient endeavor is made available to meet any pressing needs of long standing. The sod roof on the log cabin will soon give way to shingles, and the oldest boy or girl may go away to school. But now, under the order of the honorable Secretary of the Interior, all is changed. The claimant and his two witnesses are now a trio suspected of perjury, and under that suspicion they must rest until some special agent finds time to relieve them at the expense of the Federal Government. When the relief may come no one can tell. That it will be tardy experience demonstrates, for the pernicious practice has been indulged to a considerable extent for some time. In certain cases, I am informed, the poor settlers have been held in painful suspense for years after final proof, either awaiting arrival of the special agent or waiting to hear from his report. Just picture to yourself the settler and his family on the lonely prairie or in the mountain glen. For years he has toiled and struggled to maintain himself and those dependent upon him. On the average he has been in debt every day of that time and, his credit being poor, the interest rate has been high. The land, fairly earned, is his only capital. In support of his right to a patent he produces proof sufficient to sustain a conviction of murder in the first degree. In the face of all this his right under the law is denied him, and he is sent home from the land office, with his witnesses, suspected of felony and commanded to await the coming of a special agent or an officer of the Interior Department to clear up the suspicion.

Waiving denial of the title their toil has fairly won, who can measure the pain these suspected men are doomed to suffer through the "chastity of honor which feels a stain like a wound?" An implied charge of perjury has been fixed where a badge of honor should have been attached. To all this the torture of suspense is added, for the discredited homesteader has a long period of anxious waiting in store for him. He can not stock the farm, because he has no basis of credit. He dare not make additional improvements, because the special agent may report against him or the land be lost on a technicality. He can only wait, and I understand that some have now been waiting for four

years or more. The pathetic victims of this iniquitous policy could not appeal in vain for sympathy to the bowels of a brute.

We are tardy in demanding to know what overwhelming public necessity cries out for the immolation of so many thousands of innocent victims on the altar of suspicion. The Congress and the country should know. Congress does not intend that its laws shall be executed in a spirit of cruelty or wrath, and the American people, inherently fair and just, need only be informed in order that the potent force of enlightened public opinion may be extended to stay the hand of injustice and oppression.

Mr. President, virtue and patriotism are not confined to congresses and to cabinets. There is not in all this world, nor in the broad extended wings of imagination a subject of thought more ennobling, or a subject of speech more inspiring, than the man who follows the plow, or the man who wields the miner's pick in the hope of achieving fortune, not from tariff exactions or special favors but from the bounty of nature.

The pioneer does not seek wealth or power by hasty ways or fraudulent means, but he patiently waits and resolutely works through dull delays of slow and laborious but sure advancement. The homesteader, in a vast majority of cases, is a man of family; he realizes that the family, not the individual, is the basic constituent element of a country's strength. With a conscience as clear as a cube of sunshine, after a day of useful labor, he finds that sleep which "knits up the raveled sleeve of care" and is, therefore, again at work before the aurora gilds the morning. He is the strength of the State. "He constitutes the State." He bears up against untold difficulties and labors for a subsistence for himself and his family with an industry and a gameness which prove him to be the possessor of the choicest gifts that are bestowed upon the children of men, for he shows by his silent but all-conquering courage that he is of the haughtiest and most aspiring of mankind. The pioneer sometimes lacks that wealth of speech which is heard in the fever of the forum, but "every word he utters weighs a ton, because there is a man behind it." He is familiar with his country's history—with the eye of faith he sees her glorious destiny. He is familiar with the rocks, with seasons that bring variety; familiar with the trees and with the soil.

Mr. President, throughout the land orators, philosophers, poets, authors, and many who sit in academic chairs, are advising the people "to get back to the soil." Nearly every publication contains an article giving wholesome advice as to "how to keep the boys on the farm," and, indeed, it can not be doubted that this advice is timely. The "back to the soil" movement is one of the worthiest movements of the day. History has shown that in troublous times those who have come from the soil have been foremost in defending liberty, for the spirit of the soil is the spirit of freedom, of justice, of purity, and of incarnate honesty.

Permit me at this point to quote those splendid lines recently written by Miss Katharine Turney entitled the "Song of the Soil":

I am the Mother of men that toil,  
The ancient Mother of all—the soil.  
The strength that ye boast ye have drawn from my breast,  
'Tis to my arms that ye creep when ye go for your rest;  
The man to his Mother full tribute shall bring,  
Then hush ye and harken the song that I sing.  
I hold in my great heart the seed and root,  
I give to my children the blossom and fruit;  
In my veins lie the silver, the copper, the gold;  
I bleed, yea I bleed, yet I nothing withhold;  
I smile when thy blade rends my bosom in twain,  
And cover my wounds with a mantle of grain.  
I give ye the bread that ye lift to your lips,  
I feed your proud mills and your far-sailing ships;  
I am loved of the sun and the wind and the rain;  
Then hush ye, my children, no longer complain;  
To each shall be given the guerdon of toil,  
For I am the Mother of Men—the soil.

The stubborn fact, however, is that while all these deep thinkers, sweet singers, powerful orators, and persuasive authors have been advising the people to "get next to the soil" a policy has been pursued in Washington which almost precludes the possibility of getting next to the soil, a policy which, to say the least, renders the life of the homesteader and home builder in the West one of isolation, a policy which requires the overcoming of so many almost insurmountable difficulties that even the boldest and most resolute men and women are shaken when contemplating the difficulties they must encounter before they may receive a patent for this soil, of which we talk so much but really cultivate so little.

Let us, therefore, do our part. The delays incident to acquiring patent to a desert-land entry or a mining claim are interminable. This should not be. Let the Government proceed upon up-to-date business principles and discard the methods that savor so much of Jarndyce versus Jarndyce.

If any great business house—Marshall Field & Co., for example—should attempt for one year to do business according to governmental methods, bankruptcy and ruin would follow that firm. Is this Government to become known as "Uncle Sam,



the irresolute"? What a sickening pity to reflect that this Government loses or wastes \$1,000,000 every day through indolence and circumlocution!

We hear very much about the necessity of conserving our natural resources, and, indeed, he "would be fit for treasurers, stratagems, and spoils" who would have the Nation waste its natural resources. The conservation of our forests should indeed be given attention, and he who would ruthlessly and wastefully or needlessly lay low one of the green-plumed monarchs of the forest would be "baser than a bondman"; but the policy of conservation of resources should not go so far as to preclude their honest and necessary use by the people. The policy of precluding the people from taking dead timber from the forests unless the settler runs the gauntlet of the departmental methods of taking out permits is a fruitful source of annoyance to the homesteaders and pioneers; and I do not forget that the bold barons who wrung from King John at Runnymede in 1215 the great charter of English liberty took care to see to it that the forests should be preserved for the use of all the people instead of the use of the aristocracy, and they used the following significant language in articles 47 and 48 of the Magna Charta:

47. All forests that have been made forests in our time shall forthwith be deforested; and the same shall be done with the water banks that have been fenced in by us in our time.

48. All evil customs concerning forests, warrens, foresters and warreners, sheriffs and their officers, water banks and their keepers shall forthwith be inquired into in each county.

I have always been in favor of the protection of the forests, and I am ready now to vote to appropriate such sums of money as are necessary to protect the forests from fire, but reproach is being brought upon conservation by the wholesale and unnecessary withdrawals from settlement and sale of public lands.

Under the present policy, while we may be conserving some of the Nation's resources, we are wasting the people. We are conserving trees, but wasting men. We should not conserve land for itself, nor a tree just because it is a tree, but because the land and tree are useful to man. The end to be achieved in conservation is not the land itself, for itself, but the prevention of unlawful waste in order that man may use the things conserved. We are all aware that there is a Nation-wide rise in the cost of living. While I believe the high protective tariff to be the pregnant parent of the present high cost of living, there are other contributing causes, and one of the chief contributing causes is the fact that the Congress has not enacted laws that give encouragement to those who are engaged in agriculture. There exists in this Nation to-day an unhealthy and unwise economic situation. There are many crowded cities where the condition of the poorer classes of the people is so pitiable that their lives are one fierce struggle for bread. The era of great cities is at hand, and something must be done, and speedily done, to bring relief. Surely to assist in advancing a remedy is a cause worthy of our close attention and our ardent support.

If the people of this Nation be encouraged and be given every legitimate and practicable opportunity for getting next to the soil, we will soon discover that millions of unplowed acres in Arizona, Washington, California, Idaho, Nevada, Oregon, New Mexico, Colorado, Montana, and Wyoming will some day be turned into farms and fields of waving grain and thus afford an opportunity for the absorption of some of the congested situations in our great cities. If home building be encouraged, thousands of our citizens to whom life is now nothing but one ceaseless, remorseless grind for the bare necessities of life will have an opportunity to enjoy some of the blessings of independence and to get from under the landlordism of another.

I desire at this juncture to read a short article from a Canadian paper, the Calgary Albertan, which I have just clipped and which states that the Dominion immigration agent is very sanguine in his belief that the immigration from the United States for this year will reach 170,000 persons. The article referred to is as follows:

On the same day that the Dominion Immigration agent was giving reasons for his belief that the immigration from the United States for the year would reach 170,000, which is much greater than in any previous year, representatives of the most promising States in the Union were making arrangements for a convention to arrange some sort of plan to prevent the migration to our western Provinces.

American settlers will continue to desire to come here under present conditions. They are attracted by our cheap and fertile lands. They are not the kind of people who will permit any person in authority or not in authority to tell them where they are to go and where they are to stay.

The campaign will have no effect other than to advertise the worth and charm and attraction of western Canada among the people who are most desirable as prospective Canadians. Every word that these gentlemen say about the exodus is a word said in favor of the place to which the migration is tending. There is a reason for the exodus. Western Canada is giving an excellent bargain to incoming settlers. The visitor is wise who takes advantage of it.

I ask Senators to observe especially these significant words: "American settlers will continue to desire to come here," to Canada. "They are attracted by our cheap and fertile lands."

Mr. President, the Dominion may boast of its cheap lands, but in many portions of the great State of Arizona, which I have the honor in part to represent, the land is so fertile that if it were not for the prohibitively high freight rates we could ship Arizona soil into Canada for fertilizing purposes. If you be seeking fertile land, turn your attention to our own great States in the West, where citrous fruits fill the air with the fragrance of their blooms even in winter—

Where the olives grow;  
The land where the fragrant winds blow  
Blue bubbles of grapes down a vineyard row.

If this Congress should pass the bill I have already introduced, which provides for opening the Colorado River Indian Reservation to public settlement, and should this Government then go further and lend its assistance to the construction of an irrigation project there, or if the State of Arizona should, as it probably will, under the Carey Act, construct an irrigation project there, such action would open to settlement 150,000 acres of the richest soil on which the sun ever shone, a soil so fertile that the wildest hyperbole becomes impotent and prosaic in attempting to describe it.

In my judgment, it is not the fertility of the soil that is attracting our Americans to Canada; but there is another line in this clipping which gives the reason why western Canada is attracting our Americans, and I will read that line, which is as follows:

There is a reason for the exodus. Western Canada is giving excellent bargains to incoming settlers.

Thus we find the situation to be that western Canada, with land by no means possessing the fertility of our land, is being settled because excellent bargains are offered to the people, but there is still another significant line in this clipping which I desire to read and which is the real reason why there is stagnation in the western part of the United States but prosperity and vigor in the western part of Canada. This clipping, speaking of the kind of people who are going into Canada, says:

They are not the kind of people who will permit any person in authority or not in authority to tell them where they are to go and where they are to stay.

That is true. The frontiersman, the pioneer, the true American will not for a moment permit a beurocrat or a doctrinaire sitting at a desk in Washington or elsewhere to tell him where to go and where not to go, and rather than submit to this unjust, un-American harassment and vexation he will resign his citizenship under the banner of the Stars and Stripes and seek a more congenial environment under the Union Jack. To the true American the lands within the State are the lands of his father's house; he will break through red tape; he will be impatient when syllabub instead of statesmanship is applied to public questions.

Let us therefore manfully face the situation as it is; let us cease blaming those who are not responsible. Congress alone is responsible. If these departments and bureaus are circumlocution offices Congress is to blame.

Mr. SMITH of Arizona. Will my colleague pardon an interruption?

Mr. ASHURST. Very cheerfully.

Mr. SMITH of Arizona. I do not think that the animadversion cast on Congress in the matter of which my colleague now speaks is entirely due to Congress itself. In quite a long experience in the other House I found the practice growing up that Congress instead of getting the facts from the departments when necessary and legislating in the light of them began to legislate through bureaus, until it has become the custom of the Senate to-day in the committees on which I am serving to ask the advice of the departments. The first question which comes from the chairman of a committee here when a bill comes up is, What has the department advised about this measure? If instead of this course we had been getting only the facts from the department itself, and then Congress had used its judgment in these matters, we would have avoided much that my colleague now very justly criticizes. The sooner we break up the practice and let it be a Government of laws by congressional enactment instead of through the advice of a bureau of the Government, the better it will be not only for us but for the balance of the United States. That Congress is rapidly surrendering its legitimate function to the executive branch of the Government is a lamentable fact, and if persisted in will in yet a short time prove the most dangerous, as it is the most insidious, assault on the guaranties contained in the Federal Constitution limiting within their proper scope the three great powers of government.

Mr. ASHURST. I thank my distinguished colleague. I am very glad to have what he has stated here made as a contribution to my address, because I regard his interruption as the most meritorious part thereof.

Mr. President, if no public business may be transacted in the departments except through endless sinuosities and the unwinding of tangled red tape Congress alone is to blame. I have sufficient faith in the integrity and patriotism of the Secretary of the Interior and the forestry officials to believe that they will scrupulously administer any law we may enact.

With Congress and with Congress alone lies the power, the authority, and the jurisdiction to remedy the situation by enacting fair, reasonable, practical, progressive laws. And then, but not until then, will we reach to a counterpart of the days depicted by Lord Macaulay's balanced lines:

Then none was for a party,  
Then all were for the State;  
Then the great man helped the poor,  
And the poor man loved the great;  
Then lands were fairly portioned;  
Then spoils were fairly sold;  
The Romans were like brothers  
In the brave days of old.

I thank the Senate for its attention.

#### APPENDIX A.

PRESCOTT, ARIZ., June 21, 1912.

Hon. HENRY F. ASHURST,

*United States Senator from Arizona, Washington, D. C.*

DEAR SENATOR ASHURST: Northern Arizona contains upward of 1,000 dry farmers who, in spite of limited experience, have been able to make a living in this department of the agricultural industry.

Dr. Cooke, who is now head of the dry farming bureau of the Brazilian Government, at Rio de Janeiro, was the first expert to look over the possibilities of this county. His report in a facsimile letter is attached herewith.

Dr. W. E. Taylor, one of the world's foremost experts on the subject of soil culture, visited Prescott at my request last October. I took him over such parts of our county as must be farmed dry, owing to lack of auxiliary water, and showed him crops which had then been harvested by farmers in different sections of the county. He pronounced the quality of these products equal to the best he had ever seen, and marveled at the depth and richness of the soil.

Since the visits of these two men, great interest has been manifested in dry farming in northern Arizona. I speak particularly of Yavapai County, because my experience lies within its borders, but I am informed that Coconino, Navajo, and Apache Counties contain great areas of land as fertile and with equally deep soils as Yavapai. In Coconino County potatoes raised by scientific farming, without irrigation, can not be surpassed in the world. In the other counties mentioned fine corn, Milo maize, Kafir corn, sorghum, and potato crops are raised yearly.

Most of the grains and cereals raised by dry-farming methods in northern Arizona are fed to stock, and the market price of these commodities is high. Farmers get 2 cents a pound for corn, Milo maize, and potatoes.

At the rate entries are being made nearly all available acreages in Lonesome, Big Chino, Williamson, Thompson, and Peoples Valleys will be filed upon within the next 10 years.

Of these valleys the most promising is the Big Chino, 50 per cent of which is owned by the Santa Fe Railroad. It is probable, however, that in this valley the chief watersheds will be utilized as dam sites, and, if so, 70,000 acres will ultimately go under irrigation. Along the main line of the Santa Fe dry farming is practiced successfully from Seligman east to the New Mexican line.

Rainfall in northern Arizona, I would say, averages about 18 inches for the last 20 years, and as dry farming is successfully carried on in parts of Wyoming and Idaho with 5 inches less of rainfall, experts agree that our chances are better. Certainly our soils are not inferior to those of any other dry-farming section in the United States; we have enough warm weather to mature crops, and water is available nearly everywhere for domestic and stock purposes. Wells have been dug in Lonesome and Big Chino Valleys and water obtained at from depths of 35 to 400 feet, and I have yet to hear of a case where water has not been found. In the Big Chino Valley several settlers, whom we have located near the valley, state within the last six months that they have found water at depths of from 14 to 60 feet, and along the Big Chino wash, where there seems to be an underflow, it is probable fodder crops can be irrigated on limited acreages.

At the Fifth International Dry Farming Congress, held in Colorado Springs last October, this county had 30 exhibits of root crops, cereals, and deciduous fruits, all raised without irrigation. We entered 26 exhibits and took 24 prizes out of the 26, this being the banner show for any country in the world besides Colorado. Had we exhibited for all Arizona, instead of Yavapai County, as we propose to do this year, I firmly believe we would have beaten Oklahoma and Colorado. The exhibits were collected within 10 days, and no opportunity was given for careful selection. The whole collection was made within a radius of 25 miles of Prescott. This showing was commented upon by the Colorado papers and by the agricultural periodicals of the country.

Very respectfully, yours,

MALCOLM A. FRASER,

*Secretary Prescott Chamber of Commerce.*

#### APPENDIX B.

Replying to your favor of recent date, will say that the history of dry farming in Yavapai County, Ariz., covers a period of barely 10 years, although the Indians in the northern counties successfully raised crops of Hopi corn and other drought-resisting cereals for centuries.

Dry farming received its greatest impetus after April, 1911, when Dr. V. T. Cooke, then the State Director of Dry Farming for Wyoming, visited the principal dry-farming areas in Yavapai County—more than 250,000 acres—under the auspices of the Prescott Chamber of Commerce. The following is taken from his report, written for that organization on April 10:

"No doubt exists in my mind to-day, after my visit in Yavapai County, and taking into consideration information as to precipitation and general climatic conditions which I have gathered, but what so-called 'dry farming' can successfully be carried on with certain varieties of crops, provided the farmer will realize the importance of properly preparing his soil and using seed adapted to your particular conditions.

"Prior to leaving Cheyenne, Wyo., where for the past five years I have acted as State director of dry farming, I gathered weather data from the United States observer.

"I was agreeably surprised to note that you have here more precipitation than I had been led to believe; more, in fact, than was the case in my Wyoming experience.

"Yavapai County soils are extremely fertile; they are easier to work and more susceptible to the retention of moisture than those soils of Wyoming upon which I have achieved notable successes.

"During my several journeys from Prescott to outlying valleys I saw large areas which I am confident will raise paying crops of alfalfa, winter wheat, winter rye, spring barley, oats, and wheat, emmer (commonly called speltz), stock beets, potatoes, corn, sorghum, Milo maize, Kafir corn, and possibly winter barley, brome grass, and slender wheat grass.

"With these crops properly grown and cultivated and with summer tillage to conserve one year's moisture to another, thus obtaining two years' moisture for one maximum crop, and with proper rotation, I am confident some crop can be raised each year on Yavapai County dry farms.

"Invariably, whether under irrigation or by dry-farming methods, I can not too much emphasize the use of seed raised by natural precipitation."

V. T. COOKE,

*State Director of Dry Farming for Wyoming.*

Following Dr. Cooke's visit many entries on Government land adjacent to Prescott and in the contiguous valleys of Yavapai County were made, and by the end of June, 1911, the figures for the fiscal year aggregated 50,000 acres which had been filed upon under the homestead and desert acts, either of which in the State of Arizona permits the settler 320 acres of land.

Encouraged by the influx of farmers from all parts of the Union, the Prescott Chamber of Commerce, in July, completed plans for the establishment of an experimental dry-farming station just north of the city; here, on 110 acres, which represents nearly every soil existent in the dry-farming areas of the county, Prof. A. M. McOmie, of the University of Arizona, is personally directing a course of experiments with many of the crops mentioned. A brief résumé of the status of dry farming in Yavapai County may be of interest to the prospective settler:

E. W. Stephens, in Ferguson Valley, has matured a crop of corn on 80 acres of land which has had no irrigation; this crop has netted him not less than 50 bushels to the acre; it was planted late in June, after the soil had been plowed but 7 inches deep; on the same ranch 30 acres of small white beans were planted at the same time on an upland field, and, although somewhat injured by insufficient rains during August, this crop nets its owner \$55 per acre.

C. A. Carter, on 40 acres of his farm in Kirkland Valley, estimates the yield at over 50 bushels; he expects to win the prize for the State of Arizona with this corn at the coming fair at Phoenix.

James Davis, in Ferguson Valley, has just harvested a crop of corn that goes over 50 bushels. This field was badly torn by hail in August, which resulted in cutting the blades seemingly to ribbons; this was the only damage done, however, and in many parts of his acreage the corn stood 15 feet high; in an adjacent field Milo maize did equally well.

Davis bought his farm of 320 acres in 1909 for \$1,000; it had been given up as an agricultural factor by its previous owner who had expended over \$2,000 in improvements; since his occupancy Davis has made a good living for his family; has made a good crop each season, and has upwards of 300 hogs to reward his industry and perseverance.

Walter Atkin, farming on dry land about 2 miles south of Prescott, has just taken 70 bushels of Silverhill buckwheat from a field of 3 acres, this being the first dry-farm crop of buckwheat raised in Yavapai County. This buckwheat received the gold award at the International Dry Farm Congress, Colorado Springs, last October. Mr. Atkin's potatoes raised in a near-by field without irrigation, took the blue ribbon at the 1910 State fair.

We have said that dry farming is in its infancy in Yavapai County; but we believe that the above statements, which can be borne out by corroboration at first hand, are impressive and will command the serious attention of industrious, thrifty farmers, which is the only class we wish to draw to this section.

Over 100,000 acres of exceedingly fertile lands adapted to dry farming are now available for entry in this county.

Very truly, yours,

PRESCOTT CHAMBER OF COMMERCE.

#### APPENDIX C.

During the last half century there have been granted to railroads approximately 115,500,000 acres of the public land, while during the same period there have been in round numbers 900,000 homestead entries gone to final patent, which have taken substantially 125,000,000 acres of the public domain. During the past 35 years, since the enactment of the stone and timber law and the desert-land law, there have been patented under the former act about 13,000,000 acres and under the latter about 6,000,000 acres, and during the past 40 years, under the timber-culture laws there were patented about 10,000,000 acres. There have been in the neighborhood of 500,000 acres patented as coal lands and also some other dispositions of the public domain in smaller amounts in various ways.

While there remains in the United States, exclusive of Alaska, approximately 317,500,000 acres of the public domain, and exclusive of about 190,000,000 acres in forest reserves, the fact is that all of these various entrymen made during the past 50 years have had the choice of the public domain and have very naturally selected the most fertile and productive land and the land most easily cleared and cultivated.

Those 900,000 homesteaders and the entries of thousands of pre-emption claimants, desert land, and stone and timber entrymen, as well as the railroads themselves, have culled over the lands of the Western States until to-day there only remain the lands that have been during all of these years and up to the present passed over many times and rejected as unfit for cultivation and not worth the effort required for their reclamation. The result is that at the present time our home seekers are not only becoming more and more reluctant to take the remaining isolated tracts of land, but the stringency of the rulings of the Department of the Interior and the construction placed upon the existing laws are, in the judgment of your committee, seriously retarding the development of the West. This statement is conclusively borne out by the very rapidly decreasing number of original entries.

In his annual report for the year 1911, the Commissioner of the General Land Office, at page 6, says:

"The total area of public and Indian land originally entered during the fiscal year ended June 30, 1911, is 17,639,099.54 acres, a decrease of 8,752,160.55 acres as compared with the area entered during the year 1910."

This statement brings home to us very forcibly, indeed, the fact that during the past year the number of original entrymen, intending settlers upon the public domain, has fallen off 33 per cent. That vividly discloses the startling fact that 55,000 home seekers and home builders that would naturally and have formerly gone out to select and settle



upon our public lands have gone elsewhere during the past year. And when the records show that during that year 125,000 good American citizens—the farmers and backbone and sinew of this country—have gone to Canada, and not only expatriated themselves personally, which is by far the most serious loss, but have taken with them at the least estimate \$125,000,000, the loss to this country can scarcely be estimated.

The PRESIDENT pro tempore. The Chair will ask the Senator from Arizona what disposition he desires to have made of the bill. Will the Senator have it referred?

Mr. ASHURST. I ask that the bill be referred to the Committee on Public Lands.

The PRESIDENT pro tempore. Without objection, the bill will be referred to the Committee on Public Lands.

#### CONSTITUTIONAL RIGHT OF THE SENATE.

Mr. BAILEY. Mr. President, I ask the Chair to lay before the Senate the resolution which I submitted yesterday.

The PRESIDENT pro tempore. The Chair lays the resolution before the Senate. It will be read.

The Secretary read Senate resolution 357, submitted yesterday by Mr. BAILEY, as follows:

Whereas the Constitution of the United States makes the Senate the sole judge of the elections, returns, and qualifications of its Members; and  
Whereas every Senator is required by his oath of office to decide all such cases according to the law and the testimony before him:  
Therefore be it

Resolved, That any attempt on the part of the President of the United States to exercise the powers and influence of his great office for the purpose of controlling the vote of any Senator upon a question involving the right to a seat in the Senate violates the spirit, if not the letter, of the Constitution, invades the rights of the Senate, and ought to be severely condemned.

Mr. BAILEY. Mr. President, executive interference in a contest involving the right to a seat in this body is so manifestly improper that it must always seem—to me, at least—very improbable; and I would not have introduced this resolution if the information on which it is based had come to me in such a way as to permit any reasonable doubt of its correctness. There is, however, no reasonable doubt about the facts in this case; indeed, there is no possible doubt about them, because the President himself has stated them in the most public and formal manner. On the 25th of last April he delivered an address in the city of Boston, and as a part of that address he read a letter which he had written to ex-President Roosevelt under date of January 6, 1911. That letter recites certain efforts made by the President to control the vote of Senators on a question which the Constitution has wisely confided to the exclusive judgment of the Senate, and which every Senator is bound by his honor and by his oath to decide according to the law and the testimony before him. In order that the Senate may know from the President's own words the extent to which he proceeded in this matter, I will ask the Secretary to read the letter which I send to his desk.

The PRESIDENT pro tempore. Without objection, the Secretary will read as requested.

The Secretary read as follows:

It comes to me, perhaps without foundation, that you are going to write a strong article on the Lorimer case and publish it in *The Outlook*. I have been doing everything I could legitimately to have the closest examination made into the Lorimer case. I have read as much of the evidence as I could get at, and I am convinced that there was a mess and mass of corruption upon which his election was founded that ought to be stamped with the disapproval of the Senate. But I want the movement to oust him to succeed. I have urged different Senators to read the record carefully; and after a talk with Root, and BURTON, and KNUTE NELSON, and CRAWFORD, and some others I believe we are going to line up a good many of the regular Republicans on the side of what I consider decency and honesty in politics.

It has leaked out that I have been taking some interest in the matter, and I fear that it has not helped the situation generally because of that strong feeling of clubdom in the Senate and that resentment against outside interference which nobody who is not intimately acquainted with the situation can understand the weight of. I was talking with BORAH this morning. I have consulted a good deal with him on the subject, and he and I agree that it would be unwise either for you or for me to come out now against Lorimer and in favor of his being ousted; that it would enable those who are determined to keep him in, especially, among the Democrats, BAILEY and others, to use an argument against outside interference that would hold a number of Democrats and would deprive us of the strength we should get by a quiet presentation of the full facts on the floor of the Senate from the Senate itself. Root is going to make a speech; so is BURTON, and I believe that LODGE will do the same thing. Now, nothing would have stronger weight than speeches from them, whereas if either you or I came out with an attack it would enable the friends of Lorimer to shift the subject from the tainted character of his seat to the independence of the Senate in acting as a judge of the qualifications of its own Members.

I suggest, therefore, that if you have an article on this subject you hold it until after the issues are more plainly made by speeches on the floor of the body in which the contest is to be won. I want to win. So do you. This is my excuse for writing you.

Sincerely, yours,

WILLIAM H. TAFT.

Hon. THEODORE ROOSEVELT,

*The Outlook, 287 Fourth Avenue, New York, N. Y.*

P. S.—Of course, I may be misinformed as to your purpose in this matter. Since dictating the above I have had the telephone conversation with you, but I let it go.

Mr. BAILEY. The speech which includes that letter was made a public document by the Senate on the 29th day of April. It happened that I was not in Washington at that time, having gone to Texas upon a brief errand, and I knew nothing about it for some time afterwards. But even when I learned about it, I refrained from calling the attention of the Senate to it, because the matter to which it related was still pending here, and I thought that the Lorimer case ought to be decided without reference to any other question. I also thought that the President's intervention ought to be judged without reference to the Lorimer case, and under this conviction I postponed all comment on the matter until after that case has been finally disposed of by the Senate.

I do not think it necessary to detain the Senate with any elaborate argument in support of this resolution, because it and its preamble declare such self-evident truths that no Senator, I think, will venture to deny them. On many questions, the President can properly communicate his opinions to the Senate, and on some questions, such as appointments to office and the negotiation of treaties, I think he can properly exchange opinions with individual Senators; but he has no right to obtrude his opinion upon the Senate or upon Senators with respect to any question affecting the membership of this body, and it is essential to the orderly administration of this Government that he shall not be permitted to do so.

Remembering that the Senate is the sole judge of the elections, returns, and qualifications of its own Members, let us dispassionately examine the President's letter and see how far he has attempted to invade our constitutional privilege on that subject. I first invite your attention to this sentence:

I have urged different Senators to read the record carefully, and after a talk with Root and BURTON and KNUTE NELSON and CRAWFORD, and some others, I believe we are going to line up a good many of the regular Republicans on the side of what I consider decency and honesty in politics.

"I have urged different Senators to read the record carefully," says the President. In God's name, has the Senate of the United States fallen to a point of such unspeakable degradation that the President of the United States must summon its Members to the White House and urge them to read the record carefully in a case which they must decide upon their oath and upon their honor?

If the President had gone no further than to urge "different Senators to read the record carefully," he would, perhaps, have been guilty of no more than an impropriety, and I would not have deemed it of sufficient importance to have brought it before the Senate. But the President, according to his own statement, did not content himself with merely urging "different Senators to read the record carefully," for he declares in that same sentence that—

after a talk with Root and BURTON and KNUTE NELSON and CRAWFORD, and some others, I believe we are going to line up a good many of the regular Republicans on the side of what I consider decency and honesty in politics.

What right had the President of the United States to "line up" Republicans, regular or irregular, upon the question of an election to this body? The right of a Senator to his seat ought to be determined upon the law and the evidence, and no political exigency can justify the application of any other rule. That ought never to be made a party question, and in this particular case it had absolutely no connection with party politics. But, sir, even if this had been a case in which it was proper for "regular Republicans" to be lined up, it was absolutely improper for the President of the United States to line them up.

For what was the President striving to "line up" these "regular Republicans"? Was it for a decision of that case upon the law and the evidence? No, sir. If the President had said that "I believe we are going to line up a good many of the regular Republicans" to decide that case according to the law and the evidence, there would have been good reason to complain at him for having said anything; but there could have been no just complaint against what he had said; but he did not say that, and although it was the sworn duty of every Senator to decide that case according to the election, the returns, and the qualifications of the Illinois Senator, the President proposed a wholly different test. His plan was to "line up" regular Republican Senators on the side of what "he considered decency and honesty in politics." I doubt if the President would be so willing now as he was aforetime to try a man on such an indictment, because his recent experience must have taught him how easy it is for a man's enemies to make a general charge of political dishonesty and how difficult it is for a man's friends to refute it, even when it is utterly unfounded. If we could believe what many "irregular" Republicans are saying about the

President, he is not so staunch an advocate of "decency and honesty in politics" now as he was 18 months ago.

But I will not adopt or repeat the bitter things which his enemies say against the President. I am willing to believe that he is still an advocate of "decency and honesty in politics" as he understands them. He is not, however, more earnestly in favor of decency and honesty in politics than I am; and he has done no more, according to his ability to promote them, than I have. But as I understand my duty, when I come to determine the right of a Senator to a seat in this body, I am compelled to try the question upon a more definite basis, and unless the record shows that he was elected by bribery or corruption, I am bound by my oath of office to recognize his right to represent the State which has given him her commission. As a citizen of Illinois, or as a member of her legislature, it would have been my right, and it would have been my duty, to have voted against Senator Lorimer if I believed him an exponent of indecent and dishonest politics; but that right belonged, and that duty rested, with others and not with us. The question of fitness, of decency, and of honesty, is left by the Constitution of this country to those who choose our Senators, and we have no right to reject their choice unless he lacks the qualifications of age, residence, or citizenship, or unless his election was procured through bribery and corruption.

Not only was the President of the United States guilty of a meddlesome interference with a matter which belonged entirely to the Senate, and concerning which he had no duty to perform; but, sir, even if the Constitution had authorized him to advise us on that question, he had not qualified himself to give us intelligent advice. He did not know the facts. He had never read a line of the official testimony.

Mr. BORAH. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from Idaho?

Mr. BAILEY. I do.

Mr. BORAH. The Senator from Texas is in error as to that proposition.

Mr. BAILEY. The Senator from Texas is not in error.

Mr. BORAH. The Senator from Texas is in error as to the President not having the evidence, because the President did have the evidence. A number of Senators here in the Senate had the evidence.

Mr. BAILEY. All Senators had the brief of the attorney for the Chicago Tribune, but all Senators did not have a copy of the evidence. The printed evidence was not delivered to the Senate document room until the 7th of January, while the President's letter to the ex-President is dated January 6.

Mr. BORAH. No; I beg the Senator's pardon. They had the evidence; they had the evidence which was printed by the committee.

Mr. BAILEY. For the committee's use.

Mr. BORAH. For the committee's use. But it was distributed here among Senators and was the same evidence as afterwards was printed for the Senate. I had it myself; the Senator from South Dakota [Mr. CRAWFORD] had it; we all had that evidence before the holidays. I spent the entire holidays in going through the testimony, and there are plenty of Senators here in the Chamber who had the evidence at that date.

Mr. BAILEY. The Senator was one of the few Senators who procured a copy of the evidence; but there was not a sufficient number printed before the holiday adjournment to have supplied each Senator with a copy.

Mr. BORAH. But, Mr. President—

Mr. BAILEY. I happened to be a member of that committee, and I know that when it came to act upon the case the committee desired to have, and it was necessary that it should have, the evidence taken by the subcommittee made available for its examination. That evidence was printed by the subcommittee for the use of the full committee, and if any Senator obtained a copy of it he obtained it from the committee or from some member of it.

Mr. BORAH. Mr. President, the evidence was printed by the committee and for the committee; but when the question was raised here upon the floor of the Senate as to whether or not it was available, the then Senator from Michigan, Mr. Burrows, stated that it would be available to the extent of a certain number of copies, and the Senator from Michigan went direct and brought copies into the Senate Chamber and handed a copy to me personally, as he did to other Senators.

Mr. BAILEY. That confirms my statement that if any Senator had a copy of it he obtained one of the committee copies.

Mr. BORAH. Well, Mr. President, I apprehend that the committee copy was a correct copy, because upon that copy the Senator from Texas and his associates filed their report. We

had all the evidence that the Senator from Texas had when he filed his report.

Mr. BAILEY. Mr. President, the interruption of the Senator from Idaho makes it proper for me to say that I have not intended to criticize him because the President had mentioned his name in this letter. I had not expected to refer to him in this connection; but since he has put me under that necessity, I feel that I ought to say, in justice to him, that I knew when I took the floor that he was one of the first, outside of the committee itself, to read the evidence. But the fact that the Senator from Idaho had read the evidence in full does not prove that the President had done so. What does the President himself say on that point? In his letter to the ex-President he says:

I have read as much of the evidence as I could get at—

I do not see how that statement can be construed otherwise than as an admission that the President had not read all of the testimony, and therefore it is plain, to my mind, that he had not, up to that time at least, seen a copy of the printed evidence. If the Senator from Idaho had been called upon to state his knowledge of the case after he had obtained and read a copy of the printed evidence, would he have said that he had "read as much of the evidence as he could get at"? Would he not have said that he had read the entire evidence? Would any man who read it all have said that he had "read as much of the evidence as he could get at"?

But the fact that the President does not claim to have read all the evidence is not the only circumstance which justifies me in saying that he was not prepared to advise the Senate on that matter, even if it had been his privilege to do so. In his Boston speech—the same speech in which he read his letter to the ex-President, and almost immediately after he had finished reading that letter—the President thus expresses himself:

I hope that my strong expressions of opinion in this letter, formed without hearing argument, may work no unfair prejudice in a cause that remains undecided.

As a lawyer at the bar and as a judge upon the bench the President of the United States had learned that even after hearing all the evidence the argument is often essential to a sound conclusion. So deeply embedded is this thought in our judicial proceedings that learned judges must often listen to stupid lawyers argue questions which they do not comprehend; because the arguments are deemed so important that it is considered better that a superior judge shall waste some time listening to an inferior lawyer than it is that he shall be deprived of the benefit of an argument from lawyers who can illuminate the question. The President realizes that an opinion formed without hearing the argument can not be relied on with full confidence, and he meant to concede that fact, or else his statement that he had formed his opinion "without hearing argument" is destitute of any meaning.

Can the Senate believe that the President was qualified to advise us about the Lorimer case when he had only read a part of the evidence and none of the arguments? Is that the way we should try a man in this country for his life or for his good name, which is dearer than his life? Was it just, was it fair, was it manly for the President of the United States, with at best but a partial knowledge of the evidence and with no knowledge of the arguments, to summon his partisans to the White House and encourage their attacks upon a Member of this body?

Yesterday, Mr. President, we witnessed a solemn and impressive ceremony in this Chamber—happily one of the few of its kind which have occurred in our history. We heard articles of impeachment exhibited against a circuit judge of the United States. Would any Senator here feel it consistent with his oath of office and with his duty as a judge in that impeachment trial to answer the President's summons and hear the President tell him whether or not he ought to vote for the conviction or for the acquittal of Judge Archbald? And yet he would have a better right to do that than he had to do the other. He appointed Judge Archbald to the bench, and it is natural that if the judge has been guilty of such misconduct as shows him unfit for that high office the President must earnestly desire to see the country relieved from the consequences of his own mistake. On the other hand, it is equally natural that if he believes Judge Archbald to be an upright judge and an honest man he would earnestly desire to see his character and his reputation vindicated. But in the choice of a United States Senator the President is under no responsibility, and having no voice in any man's election to the Senate, he should have no influence over any man's ejection from it. As well, sir, might the President of the United States send his messenger to the Supreme Court room and, summoning its honorable justices to his presence, tell them how to decide a lawsuit pending there as



for him to call Senators to the White House and tell them how they should vote upon the question of a Senator's right to a seat in this body.

Was the President conscious that his course, to put it mildly, was irregular? I think he was. He must have been, or else he would not have spoken in that letter about it having "leaked out" that he "had been taking some interest in the matter."

Oh, what an expression to come from a President to an ex-President of this Republic! If the President of the United States was doing what he believed it was his duty to do, or what he had a right to do, there was no necessity of attempting to conceal it, and if there had been no attempt to conceal it, he would have never said that a knowledge of it had "leaked out." A President ought never to do anything which "leaks out." It may happen, of course, in the administration of justice or in our international relations, that it would not be compatible with the public interest for the President to announce his purposes or his negotiations; but the President of the United States should never do anything with respect to the Senate or its Members where a knowledge of what he had done might "leak out."

After telling the ex-President that it had "leaked out" that he had been "taking some interest in the matter," the President adds:

And I fear that it has not helped the situation generally, because of that strong feeling of clubdom in the Senate, and that resentment against outside interference which nobody who is not intimately acquainted with the situation can understand the weight of.

Here is the old slander which has been made to do service for many years. For a quarter of a century the vicious have taught the ignorant to believe that the Senate of the United States is a mere club. Sometimes they call it a "millionaires' club," and in order to aggravate the prejudice against this body, they describe as millionaires Senators who are not worth the tenth of a million dollars. The President moderates the offensiveness of his reference to the Senate as a club by omitting the "millionaires," but he still does this body, and he does the sovereign States which it represents, the gross injustice of speaking of it as imbued with the narrow spirit of a club, and he puts its resentment against outside interference as second to the "strong feeling of clubdom." What answer will the Senate make to such a reproach upon it?

If the President had only declared that the Senate would resent outside interference with its functions, he would have paid you a tribute which your predecessors of other days deserved, and to which I hope you will establish your claim when we come to vote upon this resolution; but no man who entertains a proper respect for this body will tell his dearest friend that it is moved upon questions touching the integrity of its members by a "strong feeling of clubdom." I hold no brief to defend the Senate, and I am not in harmony with the opinions which dominate it to-day, but I bear cheerful witness to the fact that it is high above the poor opinion which the President expresses of it.

By a large majority the Senate decided the very case to which the President's letter related differently from what I think it ought to have been decided, and contrary, as I firmly believe, to the law and the testimony concerning it. But Senators whose character and patriotism do credit to the Senate and the country were governed in their votes upon that question more by what they believed was "a larger view" of it than by the law and the testimony. I feel sure that they were wrong in casting their votes upon such a consideration, but I know that some of them, right or wrong, were absolutely honest in what they did and acted for what they believed to be the highest welfare of the country.

Mr. President, no personal or party feeling ought to actuate the Senate in repelling an encroachment upon its privileges, and I am averse to introducing such topics into this discussion; but I do not see how I can ignore that sentence in which the President refers to me by name and to my party associates by designation. To leave that part of his letter without some comment might impress those who may now read, or who may hereafter read, this debate with the idea that what the President has said about us was either so true that we could not deny it, or else that we did not regard it as serious enough to call for an answer. With that idea in my mind I am constrained to take the President to task for what he said about me and about the Democrats of the Senate. I particularly invite your attention to this sentence:

I agree that it would be unwise for either you or for me to come out against Lorimer and in favor of his being ousted; that it would enable those who are determined to keep him in, especially among the Democrats, BAILEY and others, to use an argument against outside interference that would hold a number of Democrats.

In naming me as one of those who were determined to keep Mr. Lorimer in the Senate I think the President was seeking

to flatter an ancient grudge which the ex-President holds against me. But if that was not his purpose and he intended to imply that I desired to keep the Senator from Illinois in this body without regard to the law and the evidence, then he slandered me, and he deliberately slandered me; because no man knows better than he does that I discharge my duties here with absolute fidelity to my judgment and to my conscience. I do not enjoy a high degree of popularity among my associates because my unfortunate habit of bitter speech has often left a wound where I ought not to have left even a sting. I challenge error wherever I happen to find it, but I do not always challenge it with words or in a manner calculated to promote good feeling, and I have provoked more or less hostility in that way. But without regard to their personal good will or their personal ill will toward me, there is no Senator in this Chamber who thinks or who will dare to say that my course in the Senate is ever influenced by any unworthy motive. Some of them say that I am too severely technical and that I sometimes sacrifice substantial justice by adhering too rigidly to the letter of the law. They may be right, but I can not accept that philosophy. I can no more believe that there is a justice higher than the law than I can believe that there is a law higher than the Constitution. I know, of course, and I know it as well as any living man, that no law has ever been devised which will work out exact justice in every case; but I am certain that it is better for all the people that an occasional injustice shall be done than that the shifting and imperfect judgment of the individuals who try each case shall be substituted for those well-established rules which have been developed and matured by the wisdom of successive ages. I was trained in a school of politics which taught that it is the highest duty of every legislator to religiously obey the Constitution in making laws and that it is no less the duty of every man charged with the execution of those laws to execute them precisely as they were written. I know that a different view prevails in this day even among some Democrats, and I am willing to concede that they are as honest as I am, but I am sure that they have fallen into a grievous error and that sooner or later they must renounce that opinion. A distinguished Democrat quoted to me last Saturday morning the old Roman maxim that "the safety of the State is the supreme law," and I answered him, as I have answered others in the Senate before this, that the party to which I belong adopted in its infancy the wiser maxim that "the supremacy of the law is the safety of the State."

But, Mr. President, the reflection on me, if any reflection was intended by the President, is not so grave as the reflection upon my party associates. He pays me the compliment—though I doubt if he so intended it—of saying that I would denounce all "outside interference," and I am now justifying his opinion in that respect. But when he intimates that my Democratic colleagues would disregard the law and the evidence, would disregard even that "larger view" upon which some of them felt themselves compelled to decide the Lorimer case, and would be controlled by their resentment against his misconduct, he writes them down as lower even than those "regular Republicans" whom he was hoping to "line up." He knows some of these Democratic Senators as well as any Republican President ought to know them, but he knows less about them than I had supposed if he does not know them well enough to understand that they will resent his unwarranted interference with the privileges of the Senate in a proper way and not permit it to control their votes upon a different question.

Mr. President, I have now discharged what has been to me an unpleasant duty. It has been unpleasant because my personal relations with the President of the United States have been of the most delightful nature, and I would not lightly interrupt our friendship; but if he were my brother I would vote to censure him whenever he crosses the line which separates the executive and the legislative departments of this Government. Whether the Senate agrees with me or not means more to it than it does to me, for I am soon to retire from public life; and while I do not regret the 22 years which I have spent in Congress, I am waiting with impatient eagerness for the 4th day of next March to come, so that I shall be released from my duties and my obligations here. But while I will not be a Senator after that, I will know then, as well as I know now, that the future of my country depends in a large degree upon this assembly, and it is my fervent prayer that the Senate of the United States shall show itself worthy of its great power by exercising it on all occasions with firmness, dignity, and wisdom.

#### THE PANAMA CANAL.

The PRESIDENT pro tempore. The hour of 1 o'clock having arrived, the Chair calls attention to the fact that at that hour the unfinished business would ordinarily be laid before the Senate, and also that under the rule of the Senate the matter of the impeachment of Judge Archbald is to be considered.

The Chair will take the liberty of laying the unfinished business before the Senate first, with a view of having it laid aside temporarily. It will be stated.

The SECRETARY. A bill (H. R. 21969) to provide for the opening, maintenance, protection, and operation of the Panama Canal, and the sanitation and government of the Canal Zone.

Mr. BRANDEGEE. I ask unanimous consent that the unfinished business may be temporarily laid aside.

The PRESIDENT pro tempore. The Senator from Connecticut asks unanimous consent that the unfinished business be temporarily laid aside. Is there objection? The Chair hears none.

#### IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDENT pro tempore (Mr. GALLINGER). The hour of 1 o'clock has arrived, and, in accordance with the rule, the legislative business will be suspended and the Senate will proceed upon the impeachment of Robert W. Archbald.

On yesterday the Senator from Utah [Mr. SUTHERLAND] offered a resolution which in a moment of confusion the Chair supposed had been agreed to, but which the RECORD does not show was agreed to; and laboring under a misapprehension the Chair recognized the Senator from Wyoming to make a motion. The Chair will now lay the resolution of the Senator from Utah before the Senate. It will be read.

The Secretary read the order submitted yesterday by Mr. SUTHERLAND, as follows:

*Ordered*, That at 1 o'clock p. m., July 16, 1912, the Senate will proceed to the consideration of the articles of impeachment of Robert W. Archbald, a United States circuit judge and a member of the Commerce Court, presented by the House of Representatives this day.

Mr. CULBERSON. Mr. President, I suggest that there is no necessity for the adoption of that resolution in view of Rule III of our impeachment proceedings, and that the resolution is, in fact, out of order.

Mr. SUTHERLAND. Mr. President, my purpose in offering the resolution yesterday was that a formal record might be made by which the House of Representatives would have notice. The rule to which the Senator from Texas calls attention does provide that the day following the presentation of the articles of impeachment, at 1 o'clock, the Senate shall proceed to the consideration of the impeachment case. That hour has arrived, and I see no purpose to be served by adopting the resolution at this time, and, with the consent of the Senate, I will withdraw it.

The PRESIDENT pro tempore. The resolution is withdrawn.

The Senator from Wyoming [Mr. CLARK] entered a motion to reconsider the vote of the Senate on yesterday appointing a committee of five Senators.

Mr. CLARK of Wyoming. I understood the announcement to be made by the Chair that we had now entered upon the execution of the impeachment rule, which provides that at 1 o'clock we shall sit as a court of impeachment. Under that rule it occurs to me that the motion as a legislative act would not properly have place at this time. I give notice, however, that as soon as we go into legislative session I shall urge the adoption of that motion.

Mr. CULBERSON. I call attention to the latter part of Rule III, and suggest that the Senate proceed to the execution of the rule.

Mr. CLARKE of Arkansas. Mr. President, I think it is perfectly evident that Rule III was adopted with reference to meeting at 12 o'clock. As the Senate assembled to-day at 11 o'clock, it is altogether probable that the hour of 1 as understood in the rule had passed at 12, it being evidently the intention that the impeachment proceedings should be taken up one hour after the assembling of the Senate.

I therefore ask that the matter be laid aside, having passed the time fixed, until the Senator from Texas [Mr. BAILEY] shall have concluded his remarks. I ask unanimous consent that that modification of the existing order be made.

The PRESIDENT pro tempore. The Senator from Arkansas asks unanimous consent—

Mr. BAILEY. I thank the Senator from Arkansas, but I would not be willing to interfere with this proceeding.

Mr. CUMMINS. Mr. President, I rise to a point of order.

The PRESIDENT pro tempore. The Senator from Iowa rises to a point of order, which he will state.

Mr. CUMMINS. It is that under the rule of the Senate there is nothing in order at the present time save the administration of the oath to Senators who are present.

Mr. LODGE. Nothing else.

The PRESIDENT pro tempore. The point of order is sustained. The oath will be administered to the Presiding Officer by such person as may be designated by the Senate.

Mr. CLARK of Wyoming. I suggest that the oath be administered to the Presiding Officer by the senior Senator in the Chamber, the Senator from Illinois [Mr. CULLOM].

The PRESIDENT pro tempore. The Chair did not understand the remark of the Senator from Wyoming.

Mr. NELSON. The rule prescribes that before proceeding to the consideration of the articles of impeachment the Presiding Officer shall administer the oath to Senators. The Senator from New Hampshire is now the Presiding Officer of the Senate. It is his duty to administer the oath.

Mr. CLARK of Wyoming. My motion was directed to the point of the administration of the oath to the Senator from New Hampshire as Presiding Officer.

The PRESIDENT pro tempore. The Chair is of the opinion that the oath should first be administered to the Presiding Officer.

Mr. SMOOT. I should like to ask the Chair if it is in order for any Senator to move that any particular Senator shall administer the oath.

The PRESIDENT pro tempore. The Chair would prefer not to take the liberty of ruling on that, preferring that the Senate itself should act.

Mr. STONE. As a matter of privilege I ask unanimous consent that the oldest Senator in service in this body administer the oath.

Mr. SMOOT. I was going to make a motion that the Senator from Illinois [Mr. CULLOM] administer the oath to the Presiding Officer.

The PRESIDENT pro tempore. Without objection that order will be made, and the Senator from Illinois [Mr. CULLOM] will administer the oath.

Mr. CULLOM advanced to the Vice President's desk and administered the oath to Mr. GALLINGER as Presiding Officer, as follows:

You do solemnly swear that in all things appertaining to the trial of the impeachment of Robert W. Archbald, additional circuit judge of the United States, from the third judicial circuit, designated a judge of the Commerce Court, now pending, you will do impartial justice according to the Constitution and laws. So help you God.

The PRESIDING OFFICER (Mr. GALLINGER). Without objection, the Chair will suggest that the Secretary will call the roll, calling 10 Senators at a time, and that as their names are called the Senators advance to the desk to have the oath of office administered to them.

Mr. O'GORMAN. Mr. President, would it not be permissible for each Member to rise in his place and, with uplifted hand, be sworn at the same time by the Presiding Officer?

Mr. LODGE. If I may say so, this is the method heretofore pursued.

The Secretary called the names of Messrs. ASHURST, BACON, BAILEY, BANKHEAD, BORAH, BOURNE, BRADLEY, BRANDEGEE, BRIGGS, and BRISTOW; and these Senators, with the exception of Mr. BANKHEAD, advanced to the Vice President's desk, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. BROWN, BRYAN, BURNHAM, BURTON, CATRON, CHAMBERLAIN, CHILTON, CLAPP, CLARK of Wyoming, and CLARKE of Arkansas; and these Senators, with the exception of Mr. BROWN, Mr. CHAMBERLAIN, and Mr. CHILTON, appeared, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. CRANE, CRAWFORD, CULBERSON, CULLOM, CUMMINS, CURTIS, DAVIS, DILLINGHAM, DIXON, and DU PONT; and these Senators, with the exception of Messrs. CURTIS, DAVIS, DIXON, and DU PONT, appeared, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. FALL, FLETCHER, FOSTER, GAMBLE, GARDNER, GORE, GRONNA, GUGGENHEIM, and HEYBURN; and these Senators, with the exception of Mr. FOSTER and Mr. GORE, appeared, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. HITCHCOCK, JOHNSON of Maine, JOHNSTON of Alabama, JONES, KENYON, KERN, LA FOLLETTE, LEA, LIPPITT, and LODGE; and these Senators, with the exception of Mr. KERN and Mr. LEA, appeared, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. McCUMBER, MCLEAN, MARTIN of Virginia, MARTINE of New Jersey, MASSEY, MYERS, NELSON, and NEWLANDS; and these Senators appeared, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. O'GORMAN, OLIVER, OVERMAN, OWEN, PAGE, PAYNTER, PENROSE, PERCY, PERKINS, POINDEXTER, POMERENE, and RAYNER; and these Senators with the exception of Messrs. OWEN, PENROSE, POINDEXTER, and RAYNER, appeared, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. REED, RICHARDSON, ROOT, SANDERS, SHIVELY, SIMMONS, SMITH of Arizona, SMITH of Georgia, SMITH of Maryland, SMITH of Michigan, SMITH of



South Carolina, and SMOOT; and these Senators, with the exception of Mr. RICHARDSON, appeared, and the oath was administered to them by the President pro tempore.

The Secretary called the names of Messrs. STEPHENSON, STONE, SUTHERLAND, SWANSON, THORNTON, TILLMAN, TOWNSEND, WARREN, WATSON, WETMORE, WILLIAMS, and WORKS; and these Senators, with the exception of Mr. WATSON and Mr. WETMORE, appeared, and the oath was administered to them by the President pro tempore.

The PRESIDING OFFICER. If there be no objection, the Chair will suggest that the names of the absentees be now called.

Mr. LODGE. I was about to make that suggestion in order that the record might be complete.

The Secretary read the names of the absent Senators, as follows:

MESSRS. BANKHEAD, BROWN, CHAMBERLAIN, CHILTON, CURTIS, DAVIS, DIXON, DU PONT, FOSTER, GORE, KEEN, LEA, OWEN, PENROSE, POINDEXTER, RAYNER, RICHARDSON, WATSON, and WETMORE.

The PRESIDING OFFICER. Senators now present whose names have been called and who have not heretofore been sworn will present themselves and take the oath.

Mr. CHAMBERLAIN and Mr. WETMORE advanced to the Vice President's desk and the oath was administered to them by the President pro tempore.

The PRESIDING OFFICER. Senators, the Senate is now sitting for the trial of the impeachment of Robert W. Archbald, additional circuit judge of the United States for the third judicial circuit, designated a judge of the United States Commerce Court.

Mr. CLARK of Wyoming. I send to the desk an order for which I ask immediate consideration.

The PRESIDING OFFICER. The order will be read.

The Secretary read as follows:

*Ordered*, That the Secretary notify the House of Representatives that the Senate is now organized for the trial of articles of impeachment against Robert W. Archbald, United States circuit judge, and is ready to receive the managers on the part of the House at its bar.

The PRESIDING OFFICER. If there be no objection, the order will be now considered. The question is on its adoption. [Putting the question.] The order is agreed to. The Secretary will so inform the House of Representatives.

Mr. BACON. Mr. President, I should like to call attention to Rule XXIII. I wish to suggest that in former cases the inconvenience of calling the roll in each instance has been avoided simply by having the order passed by unanimous consent rather than by putting it as a motion, as is ordinarily done. I would suggest that in this instance the vote just taken be either reconsidered or set aside as not having been properly had, and that the question be submitted by the Chair for unanimous consent in order that the record may thus appear.

The PRESIDING OFFICER. Upon reflection the Chair agrees with the Senator from Georgia, and will ask that that procedure be had. The Chair will ask, Is there objection to agreeing to the order? The Chair hears none, and it is agreed to by unanimous consent.

Mr. SMOOT. I ask the Senator from Georgia whether he thinks that that is the rule? I do, for this reason. Rule XXIII provides that:

XXIII. All the orders and decisions shall be made and had by yeas and nays, which shall be entered on the record, and without debate, subject, however, to the operation of Rule VII.

Rule VII provides that:

VII. The Presiding Officer of the Senate shall direct all necessary preparations in the Senate Chamber, and the presiding officer on the trial shall direct all the forms of proceedings while the Senate is sitting for the purpose of trying an impeachment and all forms during the trial not otherwise specially provided for. And the presiding officer on the trial may rule all questions of evidence and incidental questions, which ruling shall stand as the judgment of the Senate, unless some Member of the Senate shall ask that a formal vote be taken thereon, in which case it shall be submitted to the Senate for decision.

The query arose in my mind whether it would be necessary to secure unanimous consent unless a vote was questioned by a Senator.

Mr. BACON. No, Mr. President, I think the Senator, I say respectfully, is not correct in that view. The rule is positive that upon all orders and decisions the vote shall be taken by yeas and nays except as provided in Rule VII. This is not one of the classes of questions provided for in Rule VII. It is not of that class at all, and manifestly it is one where, in the absence of unanimous consent, it would require that there should be a roll call. During the course of the trial questions must be decided. There are questions about which there will be no division, and if it is done by unanimous consent it complies with the intention of the rule, which is that wherever there is a division of the Senate upon any order or decision other than matters

prescribed in Rule VII there shall be a record vote, and without debate.

Mr. HEYBURN. Mr. President, I am under the impression that the rule of unanimous consent does not apply during an impeachment trial at all. The rule provides that the Chair shall decide. It provides the manner of an exception to the decision of the Chair. That is the whole story. The Chair is not required to inquire whether or not unanimous consent is given. The Chair rules primarily under the rule, and unless some objection is interposed in the manner provided by the rules the ruling of the Chair is final.

So I think that during the trial of an impeachment case in the United States Senate the rule of unanimous consent has nowhere an application.

Mr. LODGE. I am about to make a motion that the Senate, sitting as a court of impeachment, take a recess until 3 o'clock in order to give the managers on the part of the House time to assemble and appear here. Before making the motion, however, I call attention to the fact that the Senate sitting as a court, when it takes a recess, brings the Senate back into legislative session where it was. I now make the motion that the Senate, sitting as a court of impeachment, take a recess until 3 o'clock.

The PRESIDING OFFICER. The Senator from Massachusetts moves that the Senate, sitting for the trial of impeachment of Robert W. Archbald, take a recess until the hour of 3 o'clock.

The motion was agreed to; and (at 1 o'clock and 45 minutes p. m.) the Senate, sitting as a court of impeachment, took a recess until 3 o'clock p. m.

#### EXPENSES OF IMPEACHMENT TRIAL.

The PRESIDENT pro tempore. The Senate is now in legislative session.

Mr. WARREN. Mr. President—

Mr. CLARK of Wyoming. I desire to present legislative business, of which I gave notice this morning.

Mr. WARREN. Then, I will ask to present what I now have. I present a joint resolution, which I ask may be read twice by its title and referred to the Committee on Appropriations.

The joint resolution (S. J. Res. 122) providing for the payment of the expenses of the Senate in the impeachment trial of Robert W. Archbald was read twice by its title and referred to the Committee on Appropriations.

Mr. WARREN subsequently said: From the Committee on Appropriations I report back favorably, without amendment, the joint resolution (S. J. Res. 122) providing for the payment of the expenses of the Senate in the impeachment trial of Robert W. Archbald, and I ask unanimous consent for its present consideration.

The PRESIDENT pro tempore. The Secretary will read the joint resolution for the information of the Senate.

The Secretary read the joint resolution, as follows:

*Resolved, etc.*, That there be appropriated from any money in the Treasury not otherwise appropriated the sum of \$10,000, or so much thereof as may be necessary, to defray the expenses of the Senate in the impeachment trial of Robert W. Archbald.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. BACON. I should like to inquire of the Senator from Wyoming if he thinks the amount provided for in the joint resolution is adequate for the purpose.

Mr. WARREN. The expenses of the last impeachment trial only amounted to about \$7,000, and this joint resolution is so framed as to use whatever may be necessary. If more funds are needed, another joint resolution can follow.

Mr. BACON. I did not know what was the actual cost of the other impeachment trial, but I knew that the resolution then offered provided for an appropriation of about \$40,000.

Mr. WARREN. It provided for \$40,000, but only a little over \$7,000 were used.

Mr. BACON. Yes; I understand that there was only about \$7,000 of it used.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### ORDER OF BUSINESS.

Mr. WARREN. Mr. President, I now ask that the sundry civil appropriation bill be taken up, which is House bill 25069.

The PRESIDENT pro tempore. The Senator from Wyoming asks unanimous consent that the Senate proceed to the consideration of the bill named by him.

Mr. SIMMONS. Mr. President, I object.

Mr. WARREN. May I ask the Senator from North Carolina why he objects to the consideration of the bill?

Mr. SIMMONS. Because I desire to make a motion to take up the wool bill.

Mr. WARREN. Well, Mr. President, then I move that the Senate proceed to the consideration of the sundry civil appropriation bill.

The PRESIDENT pro tempore. The Senator from Wyoming moves that the Senate proceed to the consideration of the sundry civil appropriation bill.

Mr. SIMMONS. Regular order, Mr. President.

Mr. WARREN. This is the regular order.

Mr. SIMMONS. That is a matter for the Chair to decide.

The PRESIDENT pro tempore. The Chair decides very promptly that the motion made by the Senator from Wyoming is in order. The question is on that motion.

Mr. SIMMONS. I suggest the absence of a quorum.

Mr. BACON. Mr. President—

The PRESIDENT pro tempore. The Senator from Georgia.

Mr. BACON. The Senator from North Carolina suggests the absence of a quorum, and I shall not therefore proceed.

The PRESIDENT pro tempore. The Chair did not hear the suggestion. The Senator from North Carolina having suggested the absence of a quorum, the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Crawford	La Follette	Pomerene
Bacon	Culbertson	Lodge	Sanders
Bourne	Cummins	McCumber	Shively
Bradley	du Pont	McLean	Smith, Ariz.
Brandegee	Fall	Martin, Va.	Smith, Ga.
Briggs	Fletcher	Martine, N. J.	Smith, Md.
Bristow	Gallinger	Massey	Smoot
Bryan	Gamble	Myers	Stephenson
Burnham	Gronna	Nelson	Sutherland
Burton	Guggenheim	Newlands	Swanson
Chamberlain	Heyburn	O'Gorman	Tillman
Clapp	Hitchcock	Overman	Warren
Clark, Wyo.	Johnston, Ala.	Page	Wetmore
Clarke, Ark.	Jones	Percy	Williams
Crane	Kenyon	Perkins	Works

Mr. JONES. I desire to state that my colleague [Mr. POINTEDEXTER] is detained from the Chamber on important business.

The PRESIDENT pro tempore. Sixty Senators have answered to their names. A quorum of the Senate is present. The Senator from Wyoming [Mr. WARREN] moves that the Senate proceed to the consideration—

Mr. BACON. I rise to a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator will state it.

Mr. BACON. If the motion made by the Senator from Wyoming prevails, the unfinished business is displaced and the bill moved by the Senator from Wyoming becomes the unfinished business in lieu thereof. Am I correct in that?

Mr. BRANDEGEE. Mr. President, I should like to have the Senator from Georgia repeat what he said, as I did not quite understand it.

Mr. BACON. The Senator from Wyoming [Mr. WARREN] moved to proceed to the consideration of the sundry civil appropriation bill. The Senator from North Carolina [Mr. SIMMONS] called for the regular order, which would be the resumption of the consideration of the Panama Canal bill. The question was raised whether the motion of the Senator from Wyoming was or was not in order, and I understood the Chair to say, before the roll was called for the purpose of ascertaining whether a quorum was present, that it would be in order. I then rose to a parliamentary inquiry, to ascertain if the Senate upon a majority vote should sustain the motion of the Senator from Wyoming, whether the unfinished business would not thereby be displaced and no longer be the regular order, and by that vote the appropriation bill would itself become the regular order, the unfinished business.

The PRESIDENT pro tempore. The Chair will frankly state, in response to the parliamentary inquiry of the Senator from Georgia, that when the Chair ruled he had forgotten the fact that the unfinished business had been temporarily laid aside. The Chair is of the opinion that a demand for the regular order would take the Senate back to the consideration of the unfinished business.

Mr. BACON. Undoubtedly.

Mr. BAILEY. A parliamentary inquiry, Mr. President. I wonder if the Chair could tell me exactly what becomes of my resolution under this condition?

The PRESIDENT pro tempore. The Chair is of the opinion that if the Senator should ask unanimous consent to continue the discussion of the resolution it would be quite in order; in fact—

Mr. BAILEY. I have some other things that it would please me to say; but if the Senate would be good enough to adopt the resolution I would be willing to take the resolution and spare the Senate the speech.

The PRESIDENT pro tempore. The regular order having been demanded, the Senate will resume consideration of the unfinished business.

Mr. CLARK of Wyoming. I ask unanimous consent that the Senator from Texas be allowed to continue his remarks.

The PRESIDENT pro tempore. Is there objection to the request made by the Senator from Wyoming? The Chair hears none. The Senator from Texas is recognized.

Mr. BAILEY. Mr. President, I will testify my appreciation of the Senate's kindness by occupying as little of its time as will enable me to conclude what I feel I ought to say.

Mr. BRANDEGEE. Mr. President, will the Senator from Texas allow me to interrupt him for a parliamentary inquiry?

Mr. BAILEY. Certainly.

The PRESIDENT pro tempore. The Senator from Connecticut will state his parliamentary inquiry.

Mr. BRANDEGEE. I desire to know whether or not the motion made by the Senator from Wyoming was put to the Senate?

The PRESIDENT pro tempore. It was not put to the Senate; at any rate—

Mr. BRANDEGEE. And I further desire to inquire whether the Panama Canal bill still remains the unfinished business?

The PRESIDENT pro tempore. It does still remain the unfinished business. Had the motion of the Senator from Wyoming been put to the Senate and agreed to, it would have displaced the unfinished business beyond question.

Mr. WARREN. I did not intend to displace the regular unfinished business when I made the motion. It has been generally understood here that when the unfinished business was laid aside temporarily, it was laid aside for the day, unless called up again, and I made the motion in deference to that custom.

I may say, however, that if the Senate expects to proceed orderly with its business, it seems to me there will have to be a time allowed for the appropriation bills in order to get them to conference. Our conferences this year on appropriation bills have been and will doubtless continue to be extended and laborious, and it seems to me that I shall have to, so far as I can, if not at this time, then very soon, undertake to displace any and all things possible in order to get the appropriation bills through, because the Government must be provided with funds, and it is running now under a temporary resolution which lasts but a few days.

#### CONSTITUTIONAL RIGHT OF THE SENATE.

Mr. BORAH. Mr. President, I want to say a few words. I do not, however, want to take the time of the Senator, if he has not concluded his remarks.

I should not feel called upon to say anything in regard to this resolution if I did not feel that to remain silent would be in some sense to shirk a part of the responsibility for this letter. I am not willing, therefore—

Mr. BAILEY. Mr. President, will the Senator permit me a suggestion?

Mr. BORAH. Certainly.

Mr. BAILEY. I want to say that I did not intend to mention the Senator's name, if I had done so—and the Senator observed that in reading the letter I omitted that part—I intended, before the Senator interrupted me the first time, to say that while the President admitted he had never read this evidence that was not true of all the Senators, and I happen to know it was not true of the Senator from Idaho. I happen to know that the Senator from Idaho had one of the copies of the testimony prepared by the subcommittee for the consideration of the full committee. I hope the Senator understands that my personal relations with him are such that it would be impossible for me to believe that he had committed himself to the decision of a question before he knew anything about the law or the facts involved.

Mr. BORAH. Mr. President, on the 21st day of December, 1910, the Committee on Privileges and Elections filed with the Senate its report upon the matter of the title to his seat of Mr. Lorimer from Illinois. When that report came in some discussion followed as to the time necessary for the consideration of the evidence and the time which had been given in its consideration. While I do not propose to trespass upon the time of the Senate to read from the record of that day's proceedings, I ask leave to insert in the RECORD a portion of the CONGRESSIONAL RECORD of December 21, 1910, pages 552, 553, and 554.

The PRESIDENT pro tempore. Without objection, leave will be granted as requested.

The matter referred to is as follows:

Mr. BEVERIDGE. \* \* \* On last Friday night I received a notice that the full committee would meet on Saturday at 10 o'clock. The committee did meet on that date, and a report of the subcommittee



to the full committee was presented, together with the statement of the Senator from Tennessee [Mr. Frazier], to which the chairman of the committee has just alluded, which I am sorry is not presented with the report and other matters just laid before the Senate. But, I take it, this could not be done under the telegram the chairman has read.

Mr. President, when the committee met at 10 o'clock last Saturday the testimony was laid before all the members of the committee. That was on Saturday morning. Speaking for myself, it was the first time I had seen the testimony. I understood also that there were briefs, more or less voluminous, neither of which I had seen.

After the report of the subcommittee was read and other statements, including that of Senator Frazier, were submitted, a motion was made that the report of the subcommittee should be adopted by the full committee. I was not able to assent to that proposition at that time for the reason that I had not read the testimony and had had no opportunity of doing so.

For that reason I asked that the matter might go over until after the holidays so that this testimony might be examined. The committee would not agree to that.

Then I asked for a week in which to examine the testimony and briefs. The committee, in its wisdom, of which I make no criticism whatever, would not agree to that. Finally, upon the withdrawal of the motion to adopt the report then presented by the subcommittee on last Saturday, the full committee adjourned on motion to meet and finally dispose of the matter on yesterday morning, thus giving the members of the committee who had had no opportunity to examine the testimony and the briefs until Tuesday morning to make such examination before making up their minds.

This seemed to me to be too short a time. It amounted to one-half of a working day; that is, Monday forenoon; or, if you include Sunday, one day and a half. The Senate itself can judge of that. Here is the testimony. It is a volume of 748 pages, closely printed. Here are the precedents involved, or some of them—a large volume. Here are the briefs—one of them nearly 200 pages long.

I immediately took the testimony away with me, and finally, on Saturday afternoon, got a copy of the brief in behalf of Senator Lorimer, but I was not able to get the brief which I understood had been printed on the other side until Monday morning.

On Sunday I entered into the investigation, so as to inform myself whether I could intelligently, one way or the other, concur or dissent from the report.

On Sunday it was quite impossible to examine with any kind of care even this brief, which is over 190 pages in length; it was impossible to examine the testimony in that brief time, so at the committee meeting on yesterday, when the motion was made to adopt the conclusion of the subcommittee and authorize the chairman to draw the report which has just been filed, I was not able to vote in favor of it, but, on the contrary, was impelled to vote against it, because, using all possible diligence, I had not been able, not only not to master, but even carefully to investigate the testimony, the briefs, or the precedents.

For this reason, Mr. President, I am not able either to concur with or dissent from the report of the majority of the committee, and shall not be able to determine whether I shall do so until I have given to these matters—the testimony, the arguments, and the precedents—such investigation and study as satisfies my mind one way or the other—such study as so serious a matter requires.

I thought it necessary to state this to the Senate so that the Senate might know why I can not concur or dissent. I therefore reserve the right, as I did in committee, to take such action as my judgment compels when I have had an opportunity to investigate these matters—which I trust I have shown to the Senate has not existed heretofore so far as I am concerned. I reserve the right, as I did in committee, either to concur or dissent or file a minority report.

Mr. President, I have served on this committee, I think, for about 12 years, and I recognize the gravity and seriousness of a case like this, not only as it affects the Senator whose name is in question, but as it affects a State and the Senate itself. There ought to be no delay on the one hand nor any inconsiderate haste on the other hand. We are about to adjourn. We shall reconvene immediately after the Christmas holidays. That will give to any Senator who desires diligently to examine the matter time to do so and to arrive at his conclusions. That having been done, Mr. President, I think all Senators will agree, without exception, that the case should be expedited and concluded.

I therefore ask unanimous consent that at an appropriate time, quite early after the reconvening of the Senate after the holiday recess—say Monday, January 9—the report of the committee just given to the Senate and laid on the table subject to call, together with any other reports which may be made in the premises, shall be taken up for consideration and made the special order, to be continued from day to day until Saturday, the 14th of January, unless sooner disposed of, at which time, before adjournment on that day, the report of the committee and all questions arising thereunder and any other reports that may be filed, together with any resolution that may be offered up to that time, shall be voted on and finally disposed of.

Mr. GALLINGER. Mr. President—

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from New Hampshire?

Mr. BEVERIDGE. I do.

Mr. GALLINGER. As I understand the matter, this is a privileged question, which can be called up at any time and discussed by the Senate. I am not willing that it shall be put in such attitude that it will displace the unfinished business, which is now the matter before the Senate, but of course the consideration of a question of this kind will not be opposed whenever the chairman of the committee feels that it is his duty to call it up.

Mr. BEVERIDGE. Mr. President, I understand that, and, as I tried to state, the reason for the request for unanimous consent was that a definite period might be fixed. I thought we might thus best expedite the matter, which, I take it, everybody desires to have disposed of. I assume that a definite period—if this is too long a time, reduce it—would answer the ends of the reasonable disposition, not only of this business, but of the other business of the Senate.

Of course it lies on the table, subject to the call not only of the chairman of the committee but also of any other Senator—the Senator can make it broader than that—but if that should be the case, and it be called up one day, discussed, and then go over for a week, the discussion might go on to the end of the session without arriving at any conclusion. Of course I merely want the sense of the Senate upon it. Whatever the Senate decides will be the law of the case.

Mr. BURROWS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Michigan?

Mr. BEVERIDGE. I have made my request for unanimous consent, and I yield to the Senator.

Mr. BURROWS. Mr. President, I gather from the remarks of the Senator from Indiana that he desires to reserve the right to file minority views if he should conclude so to do.

Mr. BEVERIDGE. I reserve the right to either concur, dissent, or file a minority report, or anything else dictated by the study of the testimony, briefs, and precedents.

The PRESIDING OFFICER. The Senator from Indiana asks unanimous consent that he may be allowed to file his views on the report just made. Is there objection?

Mr. BURROWS. There is no objection to that, I understand.

The PRESIDING OFFICER. The Chair hears no objection, and the Senator from Indiana has that permission.

Mr. BURROWS. Mr. President, I desire to say further that I think the Senator from Indiana must have misunderstood the resolution passed by the Senate and my request that the report of the committee lie on the table.

Mr. BEVERIDGE. No; I understood that.

Mr. BURROWS. The very object of that was to give to every Member of the Senate the opportunity to examine the testimony and the report. In that way we fully meet the criticism of the Senator from Indiana that there has been undue haste in the matter—

Mr. BEVERIDGE. I expressly stated that I made no criticism at all. I merely stated the facts as to why I can not now concur or dissent from the majority report.

Mr. BURROWS. In order to give time to examine the report and the testimony, I have asked that the report lie on the table and the testimony printed in sufficient quantity to supply the Senate. There is no occasion for fixing a date for the consideration of the report.

As has been well said by the Senator from New Hampshire, this is a privileged report and can be called up at any time.

Mr. BEVERIDGE. Mr. President, I expressly state that I make no criticism on the committee or any member thereof. I am familiar with the proprieties. I have stated merely the facts. The Senate can see for itself that it was not an excuse, but an explanation as to why I myself am not ready to express any opinion upon this case, either concurring with or dissenting from the majority report. There [exhibiting] is the volume of testimony—748 pages closely printed; here [exhibiting] is one of the briefs—nearly 200 pages long; there [exhibiting] is another; and here [exhibiting] is an abstract. The time given—

Mr. BAILEY. Will the Senator permit me to ask him a question?

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Texas?

Mr. BEVERIDGE. I do.

Mr. BAILEY. Of course the Senator might have been otherwise engaged, but a very elaborate brief for the petitioners in this case was sent to me, and I assume was sent to every member of the committee, and probably to every Member of the Senate, something like two months ago, or certainly more than a month ago.

Mr. BEVERIDGE. As I have said in my remarks, to interrupt the Senator right there, I never saw nor heard of these briefs until the meeting of the committee on Saturday last. On Saturday afternoon I succeeded in getting the brief of Mr. Haneey, but was unable to get the other briefs—I was informed at that time that they were in existence—until Monday morning, when I did get them, and I never saw the testimony until last Saturday morning at committee meeting.

The Senate itself can judge whether or not I am unreasonable in saying that, even working on Sunday, which would allow a day and a half before the final meeting of the committee, there was sufficient time to go through a volume of 748 pages, a brief of 190 and some odd pages, and another brief of I do not know how many pages, to say nothing of the precedents.

At least, Mr. President, working with some diligence, I could not do it. I state that not in criticism of anybody else, but as a reason why I am not able to act this morning, and I made the same statement in the committee yesterday morning.

Now, as to the other point of the Senator from Michigan, Mr. Burrows, I am not urging haste. Not being able, for the reasons given, thoroughly to familiarize myself with the case—and, I repeat, the Senate can judge for itself whether a day and a half, including working on Sunday, is enough to go through all of these volumes and all the authorities cited—it seems to me that the holidays would afford enough time. And if the holidays do afford enough time, we should then proceed to consider and conclude the case without unreasonable delay. That is the only request I made.

Mr. BURROWS. May I ask the Senator a question?

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from Michigan?

Mr. BEVERIDGE. Yes.

Mr. BURROWS. Does the Senator know of any criticism of him because he did not feel able to concur or dissent at that meeting of the committee?

Mr. BEVERIDGE. Well, no; except the one the Senator implied. He did not mean it, but he implied one when he stated a moment ago that, in the first place, I complained of haste and now I wanted to make haste. I am trying to show that the Senator is in error, and he will see it himself.

I said, as the Senator will remember, when I asked that opportunity to investigate the record of the case be given those of us who were not members of the subcommittee, that the time during the holidays would be sufficient. The committee would not agree to that. Then I asked for only one week. The committee would not agree to that.

I do not desire, on account of my not having gone through 748 pages of testimony and the briefs and precedents in a day and a half, including Sunday, to delay this matter. It struck me—and it is a matter I have thought of since I have been sitting here in my seat—that it would serve the ends of justice, the convenience of Senators, and the settlement of the whole great question involved if, a reasonable time having been given to all Senators to examine the testimony and the arguments, that a specific time then be fixed for taking up and determining the report of the committee, any other reports that may be filed, and any resolutions that may be based upon them.

If the 9th of January is too early to take the matter up, I would change the dates in my request for unanimous consent so that it would be taken up on Monday, the 16th, and continue until Saturday, the 21st, unless we can dispose of it earlier than that. That would give one week.

Mr. BORAH. This discloses, Mr. President, that upon that day the evidence was subject to the call of those Members of the Senate who desired to call for it; that while it had not been published by the Senate, there had been a print of it by the committee, and that print was subject to the call of Members of the Senate.



Mr. BAILEY. Mr. President, whatever the records may show in that regard, that is not correct. The committee had no authority to print the testimony for the use of the Senate until the Senate ordered it printed. The committee had authority to print only for the use of its own members; and no part of the testimony had been printed except for the use of its members. I distinctly recall that I procured at least one and probably two copies of it for some of my friends in the Senate who wanted to read it during the holidays.

Mr. BORAH. The point which I was pressing was not the technical proposition as to whether or not the print had been made under the control of the committee for the Senate; but the fact was that the evidence was in such shape that it could be had by Members of the Senate to read, and that that was a condition which had existed for some days, and that briefs on the subject had been upon the tables of Senators for weeks and weeks prior to that time.

The Senator from Texas stated upon that day, when the Senator from Indiana was asking for time:

Of course the Senator might have been otherwise engaged, but a very elaborate brief for the petitioners in this case was sent to me, and I assume was sent to every member of the committee, and probably to every Member of the Senate, something like two months ago, or certainly more than a month ago.

The matter which I desire to have the RECORD disclose is that those who were discussing this matter with the President or anyone else upon the 6th day of January, 1911, had had the testimony for nearly a month and had had the briefs for a month and a half or two months.

One further matter:

In this letter the President refers to the fact that apparently there was a disposition to let the matter go by default. Perhaps that was an unfortunate expression upon the part of the President. Yet the history of the situation at that time discloses that that was an expression which might very properly come from almost anyone engaged in a discussion of the matter.

Mr. BAILEY. Permit me to call the Senator's attention to the fact that this statement of the President about going by default was not made in the letter written in 1911; it was made in his speech on the 25th day of last April. It is part of the speech, and not part of the letter.

Mr. BORAH. Whether the expression appeared in the letter or in the speech, the facts which I am about to narrate to the Senate would, I think, justify its use.

On the Friday prior to the 21st day of December, 1910, the subcommittee of the Committee on Privileges and Elections made its report to the general committee. The Senator from Indiana, Mr. Beveridge, asked for an extension of time to read and discuss the testimony. That was denied to him by the committee. He again asked for an extension of time, as he says in his statement here, and again the committee thought it proper to refuse the extension of time.

It is a notorious fact, Mr. President, known to all who are familiar with the condition of affairs at that time, that notwithstanding the report of the subcommittee did not come to the general committee until the 18th day of December, and notwithstanding the general committee did not report until the 21st day of December, and that in two or three days we were to adjourn for the holidays, there was an urgent disposition to dispose of that matter prior to the holidays.

Mr. BAILEY. Mr. President, will the Senator permit me to interrupt him there?

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Texas?

Mr. BORAH. I do.

Mr. BAILEY. Instead of there being an urgent disposition on the part of the committee to dispose of it, there was an urgent insistence on the part of somebody that the committee should make its report before the holidays.

While I am on my feet, I want to say that it is not true that the committee denied Senator Beveridge any time that he wanted. It is true that the committee, when ready to make its own report, was not willing to delay it in order that Senator Beveridge might have his dissenting opinion ready to file with the opinion of the committee. But it did not deny him any opportunity that he wanted to examine the record.

Mr. BORAH. Mr. President, Mr. Beveridge says in his statement:

On last Friday night I received a notice that the full committee would meet on Saturday at 10 o'clock. The committee did meet on that date and a report of the subcommittee to the full committee was presented, together with the statement of the Senator from Tennessee [Mr. Frazier], to which the chairman of the committee has just alluded, which I am sorry is not presented with the report and other matters just laid before the Senate. But, I take it, this could not be done under the telegram the chairman has read.

Mr. President, when the committee met at 10 o'clock last Saturday the testimony was laid before all the members of the committee. That was on Saturday morning. Speaking for myself, it was the first time

I had seen the testimony. I understood also that there were briefs, more or less voluminous, neither of which I had seen.

After the report of the subcommittee was read, and other statements, including that of Senator Frazier, were submitted, a motion was made that the report of the subcommittee should be adopted by the full committee.

Now, it is but fair to say, it seems to me, that if this matter was in such a condition and the record was so that the full committee could pass upon it within the time which it undertook to pass upon it, whatever other criticism may be lodged against the President for the letter it should not be said that he did not have an opportunity to examine the facts some 30 days thereafter. The subcommittee made its report upon a certain morning, and upon the same morning voted to send its report out of the committee into the Senate.

Mr. BAILEY. Mr. President, will the Senator permit me to interrupt him there?

Mr. BORAH. Certainly.

Mr. BAILEY. If the Senator wants to indulge in that kind of a reflection upon the committee, I am more than ready to meet it. I want to tell him now that no matter what Senator Beveridge said, it is not true that every member of the full committee had not been furnished that evidence before the subcommittee met. I do not know whether it is in that record or not. If it is not, it ought to have been suggested, when Senator Beveridge made that statement, that if he had never examined that record until that morning it was his own fault, because as soon as the subcommittee had concluded its labors it put its report into print and furnished it to the full committee.

Mr. BORAH. Mr. President, I am not reflecting upon the committee. I assume that when the committee signed that report they had had ample time to examine the 800 pages of testimony.

Mr. BAILEY. What was the purpose of the Senator in saying that they came and at once made the report if he did not mean to imply that they made the report without consideration?

Mr. BORAH. It was this. My object and purpose in making the statement was that if this committee, upon evidence which it had before it and the record which was before it, could pass upon it on the 21st day of December, the President, on the same record, could be fully informed on the 7th day of January.

Mr. BAILEY. But the President said he had read only such parts of the evidence as he could get at, making it plain that he had not read what the committee had.

Mr. BORAH. No; it does not make it plain that he had not read what the committee had. It makes it plain that he had read what the record discloses. Whether that should be regarded as a full and complete showing or not might be a subject of discussion, but he had the same record and he had the opportunity to have the same record, and there is no proof that he did not have what the committee had when it signed its report on the 21st day of December.

Now, Mr. President, a number of Senators here know it to be true that this record was taken by them during the holidays and examined upon their part and thoroughly analyzed, and when we convened after the holidays they had fully studied, considered, and digested the evidence and the law and made up their mind in regard to this record. It was a matter which was being discussed here and there, and was much more familiar in a way than it was to Senators a month thereafter, because they had thoroughly studied it during the time they had nothing else to do except to consider it.

This is what leads me, however, to say what I am saying. I learned that Col. Roosevelt was to write this article. I did not think it was a wise or a proper thing to do, and I went to the President and told the President that, in my judgment, it was not a wise thing to do to have the matter discussed in that way; neither was it a fair proposition; that this was a matter which ought to be settled by the Senators themselves. I have no doubt, in fact I know, that it was upon my suggestion that the President wrote and asked that that article be not published. It was not, in my opinion, upon his initiative, but having learned it in a way that I could not doubt, I felt that Col. Roosevelt ought not to take that course, and that the discussion ought not to proceed along that line. Now, I never saw the letter after it was written until it was published at Boston.

Let me say another thing. The Senator seems to think that wherein the President says that he—the Senator from Texas—was determined to keep Senator Lorimer in the Senate is a reflection upon the Senator from Texas. It might seem so upon the face of the letter, but I happen to know, and I want to say to the Senator from Texas in public, that that was not the construction which the President put upon that language.

The Senator from Texas at that time had signed this report. He had made known to the world that he believed that this man was innocent of these charges and that his title was good. Everyone who knows the character and disposition of the Sena-



tor from Texas knows that when he takes a position back of it always is his determination, and it was in that view that the President of the United States used that language in that letter. I would not say so from the construction of the letter had I not been in the discussion with him and known precisely what he meant. I do not myself consider it to be a reflection upon the Senator to have it said that in so grave a matter and so important a matter, after he had made up his mind and announced it to the world, he would put forth his best efforts to carry his convictions to a successful result; and that is the fair construction which is to be placed upon the letter.

Mr. BAILEY. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Texas?

Mr. BORAH. I yield.

Mr. BAILEY. Mr. President, the Senator from Idaho makes it plain to the Senate that he had discussed with the President of the United States the letter, and therefore he knows what was in the President's mind. I am glad to know that the President did not intend what I thought the letter fairly implied, and upon the statement of the Senator from Idaho I want to withdraw what I said about the President on that point. I shall take leave, unless it is denied me by the Senate, to omit that from my remarks.

Mr. BORAH. Mr. President, I am not at liberty, I presume, to go into the details of what was said in the conversation at that time, although I presume I might do so in view of the fact of the publication of the letter. But I will say, in a general way, that no part of that conversation could have been construed into a reflection upon the Senator from Texas. It would have been a reflection of the most unfortunate kind had not the exact position which the Senator from Texas had taken in that matter been known. But that was thoroughly known. No one who knows the Senator from Texas ever doubts what his attitude will be toward a question after he once announces his position.

I think, Mr. President, I shall not go into a discussion of another feature of this matter. I doubt if the circumstances would justify it. But I have felt constrained to say this much for the reason that I could not sit silent and permit the entire responsibility for this matter to rest upon the President. I have no doubt in my own mind that the letter was written by reason of the suggestion which I myself made. The exact language of the letter or the references therein made, of course, I knew nothing about until after the letter came out, but I felt then—and I have no doubt that that was the proper view of it—that the matter should have been decided just as the President, in the latter part of the letter, said it should be decided, by the record and the result of discussion in the Senate.

Strange as it may seem to the Senator from Texas, the object of the President in writing this letter was to bring about that situation in so far as he could. I did not know of anyone at that time who could reach to the ex-President so well as the President, and therefore I went to the President upon that proposition.

It might be said further, Mr. President, as a reflection upon myself, that I had no business at the White House discussing a matter upon which I was to pass as I was to do in that matter. But, Mr. President, I had, as I said, taken the testimony and read it during the holidays. I made up my mind as to what the record disclosed and as to what it proved. I had no doubt as to the justice of my position, and having concluded myself, after a thorough investigation, I felt that there was only one thing that ought to be done—that the title should be declared void, but that it should be done under such conditions that it could be said that the Senator from Illinois had been given a fair hearing.

As to what ought to happen, as to what the judgment ought to be, as to what our conclusion should be when we finally came to it, I had no doubt after reading the evidence, and I have never had any doubt since.

Mr. McCUMBER. This resolution, Mr. President, ought not to pass in the form in which it is written. A resolution declaring the attitude of the Senate under circumstances of the kind mentioned in this instrument it seems to me to be quite proper at this time.

Mr. President, I am a friend of the President of the United States, both a personal and a political friend, a friend before the convention and a friend after the convention. I would have done him no injustice before, nor would I stand idly by and see an injustice done him at the present time.

I have never been in the habit of deifying anything human or assuming that any man was not capable of making a mistake. I think a President of the United States does make a mistake whenever he attempts to influence votes one way or the other

upon a question of the right of a Senator to a seat in this body. I believe equally the ex-President or any other man who, knowing that a case is before the Senate, every Member of which is sworn to do his duty as he sees it, is never justified in attempting to influence that Senator any more than he would be justified in attempting to influence a judge upon the bench.

I further believe that the great press of the country when it threatens the seat of any Senator who has the courage of his convictions is guilty of a more gross wrong than either the President or any other individual. In making such a threat against any Senator for the purpose of compelling him to surrender his convictions to their particular wishes the press commits an offense against the Senator, against the accused, and against the country.

But, Mr. President, I do believe that we are justified at this time in saying to the world that the Senate has confidence in its own integrity; that it has confidence in its own desire to do what is right; that it has confidence in its own purpose to make the laws for the Government in accordance with the dictates of its own conscience and its best judgment. That is the function of the Senate of the United States.

Mr. BORAH. Mr. President—

Mr. McCUMBER. And when any President, I do not care for what purpose, steps in and seeks to control the Senate in the manner that is indicated here—and I will use the words of the resolution—"that any attempt on the part of any President of the United States to exercise the powers and influence of his great office" for the purpose of controlling that which is wholly within the jurisdiction of the Senate of the United States, ought in appropriate words of the Senate to be checked. We know that that has been the custom of the Executive for the last 10 years, and the press of the country has justified the Executive in exercising a greater power over legislation and other matters before Congress than was ever contemplated by the framers of the Constitution.

The Senate of the United States has been on the pillory for 10 years, and anyone who did not follow the advice of the President of five, six, and seven years ago was subject to execution. I believe that the Senate ought to reassert itself; that it ought to have the courage to assert its exclusive functions, and not to be controlled by the Executive; and the Executive ought to understand the constitutional limits of his authority as written in the Constitution of the United States; and that each of the great departments of this Government ought to proceed and be secured in the performance of its own particular duty without influence or force being brought upon it by any other department of the Government.

I therefore, Mr. President, am going to ask, because I am perfectly willing to vote for a proper resolution, that an amendment be made which will add, after the word "Senate," these words:

Or any other matter within the exclusive jurisdiction of the Senate.

I think the President has just as much right to use his influence in reference to the right of a Senator to a seat in the Senate of the United States as he has to use his influence in a matter of confirmation of one of his appointees, and no more. In either case we act as judges upon the evidence submitted, and justice should be blind to everything but the evidence.

Mr. BORAH. Or upon the reciprocity question.

Mr. McCUMBER. Just one moment. I would move to strike out the latter part of the resolution, which reads "and ought to be severely condemned." I do not think under the history of this country for the last 10 years we ought to condemn severely that which has grown into a sort of custom and which through the influence of the press of the country has come to be regarded by the people of the country as a proper function of the Executive; but I believe with that stricken out and making the resolution the mere declaration of a principle that will clearly indicate our position it might then properly pass.

Mr. BORAH. Mr. President, it is never very difficult for a man to declare that he believes himself to be honest. I doubt very much if it will add particularly to the dignity of the Senate throughout the country if we ourselves declare that we still think we are honest and that we have capacity to legislate. Just as sure as we proceed we will proceed along the lines upon which we have been proceeding for the last quarter of a century, and that is that the executive department and the legislative department will be constantly cooperating and dealing with one another in reference to legislation in all matters which concern either department.

If we would cease doing it and operate upon our own responsibility alone it would be much better notice to the country than to continue to violate the rule and once in a while pass a resolution that we think we can get along by ourselves.

Mr. BAILEY. Mr. President, I shall detain the Senate but a moment.

The Senator from Idaho seemed impressed with the view that what I have said about the President's unwarranted interference in the late contest from Illinois necessarily involved some reflection upon the Senators whose names he mentioned in that letter.

I avoided any comment upon those Senators for two reasons. First, although I had not discussed it with him, I felt sure that the Senator from Idaho had examined that testimony before he ever expressed his opinion about that case.

My acquaintance with the other Senators whose names the President felt at liberty to mention is not such as to warrant me speaking for them, but I am sure that they must have known something about the evidence before they pledged the President to make a speech upon the case. Therefore, I was willing to assume that they, like the Senator from Idaho, had procured one of the few available volumes of that evidence. I know—and I learned that within an hour—that the Senator from Iowa [Mr. CUMMINS] had one of them, but he did not find it possible to obtain it before he left the city of Washington, and he taxed the good offices of the Senator from Idaho to send it to him. But I did not think it proper to assume that those Senators had not made up their minds. The only criticism against them which I think the record warrants is that they permitted the President to talk with them upon a matter of that kind.

I agree that we have fallen into the evil habit of conferring with the President upon all matters and taking, I will not say instruction, because that would be offensive, but taking his advice upon those matters which relate to us alone.

I hope the time will come again, and maybe it will come again, when we will go back to the rule which prevailed with some, at least, under Madison's administration. I would not vouch for the accuracy of it, but it is related that on one occasion Madison sent for John Randolph, of Roanoke, to come to the White House, and when Randolph reached there Madison began to ply him with an argument upon some matter pending in the House of Representatives, of which Randolph was then a Member. Randolph drew himself up and in that shrill voice for which he was peculiar he said: "Mr. President, the Constitution of the United States makes the Executive and the Congress separate, and damn me if I do not intend to keep them separate as far as I am concerned."

I do not think there was any profanity, I do not think there was even any impiety, in Randolph's emphatic refusal to hear the President further. Madison had no right to attempt to influence a man whom the Constitution, through the preference of the people, had assigned to a different department of the Government.

I hope to see another time when every President who undertakes to talk with a Senator or a Representative upon those matters which the Senators and Representatives ought to decide for themselves will get an answer like that which Randolph made to Madison.

But what I was complaining about in this particular connection was that the President had not read the record. The Senator from Idaho seems to think that the President's expression does not admit of that construction. But the Senator from Idaho must know that if the President had read all there was in the case (and if he had that published volume he would have read all that there was in the case) he would have said that he had read "as much of evidence as he could get at." The very expression which he uses makes it manifest that he had not read the testimony. But, Mr. President, the statement made by the Senator from Idaho, though intended as an exoneration of the President, makes his attitude more pitiful, if possible, still, because, although they were trying to dissuade the ex-President from formulating and printing his assault upon the Illinois Senator, they hardly dealt candidly with him.

I will not say they; I will say the President did not deal with him in perfect candor. He led the ex-President to believe not that it would be an improper thing, as the Senator from Idaho admits it would have been, for the ex-President to try to create a public sentiment which would force the judgment of the Senate, but the President of the United States attempts to impress the ex-President of the United States that the way he was laying down the rule was the best way to play the game, not for justice, not for fairness, not for the dignity either of the President or the Senate, but to win.

That is what the President undertakes to impress upon the mind of the ex-President, and I regret to say—yet I ought not to regret it because I know that nothing else could happen—that when a President of the United States begins to do what

he can not openly do, he will find himself enmeshed in just such toils.

Now, Mr. President, I do not believe that these other Senators sought the President as the Senator from Idaho did. The Senator from Idaho sought him with a very laudable purpose. I concede that the Senator from Idaho felt that the publication which the ex-President intended to make was not only hurtful to what he believed was the justice of the cause, but he believed that it was unfair for a man of the ex-President's great reputation to throw the weight of his popularity against the defendant in the Senate. That was a high view to take of it, and I can well not only excuse but I can commend the Senator from Idaho for going to the President to enlist his good offices to prevent that wrong. But he went to him not as the President of the United States, he went to him as the one man whose request would be most potential with the ex-President; in other words, if I may be permitted to interpret the feeling of the Senator from Idaho, it was that if there had been a Senator here more potential with the ex-President than the President he would have gone to that Senator. If there had been a citizen of his acquaintance with whom he felt at liberty to speak on such a subject he would have gone to that citizen.

This resolution does not touch that. Whatever I may think about the matter, I carefully refrained from translating my own opinion on this particular case into the resolution. This resolution does not deny the President as a member of his party the right and even the opportunity to confer with his partisans upon a party question. We leave all that aside. That is the reason why I hope the Senator from North Dakota [Mr. McCUMBER] will not press his amendment.

There is a line which we must recognize, a line at which the President confers with his partisans, not as the President but as their fellow partisan, and I doubt if it would be possible to administer this Government under party responsibility if we denied the Members of the President's party the opportunity to counsel with him not with respect to what we do as Senators but what we would do as Republicans or Democrats, as the case might be.

Mr. McCUMBER. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Texas yield to the Senator from North Dakota?

Mr. BAILEY. Certainly.

Mr. McCUMBER. I think the Senator from Texas did not clearly hear the amendment which I offered. The amendment dealt with those questions which were exclusively within the jurisdiction of the Senate. The question, for instance, of the trial of an impeachment is exclusively a question for the Senate. The question as to whether or not we confirm an appointment is exclusively within the jurisdiction of the Senate. The question of legislation upon which the Executive advises and upon which he can advise generally, and upon which the other branch must act, is not exclusively within the jurisdiction of the Senate. I think the Senator will agree that my amendment is proper.

Mr. BAILEY. I did not hear the word "exclusive."

#### IMPEACHMENT OF ROBERT W. ARCHBALD.

The PRESIDING OFFICER (Mr. GALLINGER). The hour of 3 o'clock having arrived, the Senate will resume the trial of the impeachment of Judge Robert W. Archbald.

At 3 o'clock and 1 minute p. m. the managers of the impeachment on the part of the House of Representatives appeared at the bar, and their presence was announced by the Sergeant at Arms.

The PRESIDING OFFICER. The Sergeant at Arms will conduct the managers to the seats provided for them within the bar of the Senate.

The managers were conducted to the seats assigned them within the space in front of the Secretary's desk.

The PRESIDING OFFICER. Gentlemen managers, the Senate is now organized for the trial of the impeachment of Robert W. Archbald, additional circuit judge of the United States for the third judicial circuit, designated a judge of the Commerce Court.

Mr. Manager CLAYTON rose and said: Mr. President, we, as managers on the part of the House of Representatives, are directed by the House of Representatives to appear at the bar of the Senate, which we now do, and demand that process be issued to Robert W. Archbald, additional circuit judge of the United States for the third judicial circuit, designated a judge of the Commerce Court, and that he be required to answer at the bar of the Senate the said articles of impeachment.

Mr. CLARK of Wyoming. Mr. President, I offer the order which I send to the desk, and I ask for its immediate consideration.



The PRESIDING OFFICER. The Senator from Wyoming offers an order and asks for its immediate consideration. The order will be read for the information of the court.

The Secretary read as follows:

*Ordered*, That a summons be issued, as required by the rules of procedure and practice in the Senate when sitting for the trial of the impeachment of Robert W. Archbald, returnable on Monday, the 22d day of the present month, at 12.30 o'clock in the afternoon.

Mr. BACON. Mr. President, I do not know how far it is proper for me to offer an amendment to this order, but it seems to me the time is rather far. I move to substitute Friday of this week for Monday next. It is simply for an appearance.

Mr. CLARK of Wyoming. But, I remind the Senator from Georgia, in the previous case four clear days were allowed, and fixing the date for appearance in this case on Friday would allow only two days; but, of course, the earliest practicable date would be preferable.

The PRESIDING OFFICER. Does the Senator from Georgia move an amendment to the order?

Mr. BACON. I will suggest that possibly the managers on the part of the House might desire to be heard on that question.

The PRESIDING OFFICER. The Chair will be pleased to have any statement from the managers concerning the matter.

Mr. Manager CLAYTON. Mr. President, I am directed by the managers to say that, in their opinion, the notice ought to be issued at an earlier day than that specified in the order which has been suggested, for the reason that when Judge Archbald is served with the process, he then may request a reasonable time to make his answer to the articles of impeachment. There is no reason why this order requiring him to answer at the bar of the Senate should not be forthwith issued. That is the opinion and the suggestion respectfully submitted, on the part of the managers, that this order requiring him to appear here be issued to take effect at an earlier day than that indicated in the order suggested by the Senator from Wyoming.

Mr. CLARK of Wyoming. Mr. President, I ask unanimous consent that the order may be changed to "Friday" instead of "Monday."

The PRESIDING OFFICER. The Senator from Wyoming has the right to modify the order; and the order will be stated as modified.

The SECRETARY. As modified the order reads as follows:

*Ordered*, That a summons be issued, as required by the rules of procedure and practice in the Senate when sitting for the trial of the impeachment of Robert W. Archbald, returnable on Friday, the 19th day of the present month, at 12.30 o'clock in the afternoon.

The PRESIDING OFFICER. Is there objection to the order as read? The Chair hears no objection, and the order is agreed to unanimously.

Mr. Manager CLAYTON (at 3 o'clock and 5 minutes p. m.). Mr. President, I beg to say on behalf of the managers on the part of the House of Representatives that they will await the further pleasure of the Senate.

The managers on the part of the House of Representatives thereupon retired from the Chamber.

Mr. CLARK of Wyoming. I offer the following order, and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The Secretary will read the order.

The Secretary read as follows:

*Ordered*, That the Senate, sitting for the trial of impeachment of Robert W. Archbald, adjourn until Friday, the 19th instant, at 1 o'clock in the afternoon.

Mr. CUMMINS. Mr. President, I have no objection whatever to this order, but I beg to call the attention of the Chair and of the Senator from Wyoming to the following rule:

IX. At 12.30 o'clock afternoon of the day appointed for the return of the summons against the person impeached, the legislative and executive business of the Senate shall be suspended, and the Secretary of the Senate shall administer an oath to the returning officer in the form following:

X. The person impeached shall then be called to appear and answer the articles of impeachment against him.

It would seem to me, therefore, that the court of impeachment must, in any event, reconvene at 12.30 o'clock upon the day required for the appearance.

Mr. CLARK of Wyoming. I desire that that modification be made.

The PRESIDING OFFICER. If there be no objection, the order will be made to conform to Rule IX, making the hour of meeting 12.30 o'clock, and the order will be agreed to as modified.

The order having been agreed to, the Senate, sitting for the trial of the impeachment, stands adjourned until 12.30 o'clock p. m. on Friday, the 19th instant. The Senate will resume its legislative session.

#### CONSTITUTIONAL RIGHT OF SENATE.

The Senate resumed the consideration of Senate resolution 357 submitted yesterday by Mr. BAILEY.

Mr. BAILEY. Mr. President, I accept the first amendment suggested by the Senator from North Dakota [Mr. McCUMBER], and rather than to have any differences amongst those who believe some action is appropriate, I will accept the latter amendment also; but before I do it I want to say that I fully understand the old controversy about the right of the Senate to censure the President, a controversy that raged about the person and history of Andrew Jackson. The resolution of censure was finally expunged; but this, I will say, does not condemn this President or any President by name. It really condemns a practice. It declares a certain practice unconstitutional and condemns it. If I had drawn the resolution to expressly condemn President Taft I would have omitted that, knowing the opinions of some leading Senators upon that subject, and I would myself have doubted the wisdom of it. I drew this resolution in the hope that every Senator in this body could support it, and in that hope I will accept both amendments.

Mr. BACON. Mr. President, I desire to suggest to the Senator from Texas that striking out the last words would necessitate the insertion of the word "and" before the word "invades."

Mr. BAILEY. The Senator is exactly right about that. Of course, that would be necessary to make it properly express the idea. First, Mr. President, I will strike out, beginning with the word "and," after the word "Senate," in line 6, down to and including the word "condemned," in line 7, and insert between the word "Constitution" and the word "invades" the word "and." The Senator from North Dakota has an amendment.

The PRESIDENT pro tempore. The modification suggested by the Senator from Texas will be stated. Will the Senator from North Dakota withhold his amendment?

Mr. McCUMBER. I withhold it, Mr. President.

The SECRETARY. It is proposed to strike out at the end of the resolution the words "and ought to be severely condemned," and after the word "Constitution," in line 6, and before the word "invades," to insert the word "and"; so that it amended—

Mr. BAILEY. Now, in order that the matter may be entirely before the Senate, I hope the Senator from North Dakota will propose his amendment.

Mr. McCUMBER. The Secretary has the amendment at the desk, and I ask him to read it.

The SECRETARY. After the word "Senate," in line 5, it is proposed to insert "or any other matter within the exclusive jurisdiction of the Senate"; so that, if the amendments are agreed to, the resolution will read:

*Resolved*, That any attempt on the part of the President of the United States to exercise the powers and influence of his great office for the purpose of controlling the vote of any Senator upon a question involving the right to a seat in the Senate, or any other matter within the exclusive jurisdiction of the Senate, violates the spirit, if not the letter, of the Constitution, and invades the rights of the Senate.

Mr. HEYBURN. Mr. President, I would suggest the substitution of the words "would violate" for the word "violates" to avoid the implied charge that these things have been perpetrated. I think, if you are going to declare a principle, it should be impersonal, and if you will declare that these things would violate a certain rule, it will rid it of the charge that it is directed against some act that has been performed.

Mr. BAILEY. Mr. President, I want to be as obliging as possible, but I fear we will have nothing of the resolution left. I want to be frank with the Senator. If this had never been done, I would regard this whole proceeding as unnecessary. The fact that it has been done is the only excuse, or the only reason rather—for it is not an excuse—for adopting any resolution on the subject.

Mr. HEYBURN. Mr. President, I would deprecate the doing of the acts set forth in this resolution, but I also deprecate the idea of one coordinate branch of the Government condemning by a specific resolution another.

Mr. BAILEY. We have eliminated that part—

Mr. HEYBURN. Yes; but if you will substitute the words "would violate" for the present expression "violates" it would carry the spirit forward. I entertain rather positive views in regard to the propriety of a President of the United States doing certain things, but I also condemn in my mind the propriety of a coordinate branch of the Government irresponsibly condemning another coordinate branch.

Mr. BAILEY. Will the Senator permit me?

Mr. HEYBURN. In a moment. If this was crystallized into a responsible act of the branch of the Government authorized—

under the Constitution to make charges, then it would be what I term a "responsible act," but this is the mere utterance of an opinion. I now yield to the Senator.

Mr. BAILEY. Mr. President, what I care most for is the assertion of the principle; and while I have felt provoked by this particular circumstance to propose an assertion of the principle, I can understand that Republican Senators who are supporting the President do not want to appear to condemn him. To avoid that, and in the hope that we still can all agree to assert the principle, I will accept the amendment the Senator from Idaho proposes, so that it may read "would violate."

Mr. HEYBURN. I ask the Secretary now to read the resolution as it will then appear.

The SECRETARY. In line 5, it is proposed to strike out the word "violates" and in lieu thereof to insert the words "would violate," so that if amended the resolution will read:

*Resolved*, That any attempt on the part of the President of the United States to exercise the powers and influence of his great office for the purpose of controlling the vote of any Senator upon a question involving the right to a seat in the Senate, or any other matter within the exclusive jurisdiction of the Senate, would violate the spirit, if not the letter, of the Constitution and invade the rights of the Senate.

Mr. BAILEY. Now, Mr. President, in order to make the resolution conform to that amendment, I will ask to strike out the article "the" before the word "President" and insert the article "a," so as to make it read "That any attempt on the part of a President of the United States," and so forth.

The PRESIDENT pro tempore. The Chair will put the question upon the amendment submitted now by the Senator from Texas to perfect the resolution, which amendment will be stated.

The SECRETARY. Before the word "President," in line 1, it is proposed to strike out the article "the" and to insert the article "a."

Mr. SMITH of Michigan. Mr. President, the resolution of the Senator from Texas, if it could be separated from the argument that has accompanied it and the circumstances which surround it—

Mr. BAILEY. Strike out the argument, then, and adopt the resolution.

Mr. SMITH of Michigan. I wish some of it might be stricken out; and, upon reflection, perhaps some of it may be stricken out. However, that will not deter me from saying that, if it were not for the contemporaneous construction of the purposes proposed and the fact that it has followed so close upon the heels of a controverted question, which has occupied the attention of the Senate for weeks and months, I think it might not be so entirely inappropriate, but before I cast my vote I want it known that in the performance of my duty, as a Senator or in either branch of Congress, I have never been influenced by the President of the United States in any way, shape, or manner.

I read all the testimony in the Lorimer case before the President wrote this letter to Col. Roosevelt, and I had no difficulty whatever in obtaining my copy of the testimony. I simply asked for it and received it. I spent the Christmas holidays last year reading it.

Mr. BAILEY. Whom did you ask for it?

Mr. SMITH of Michigan. I asked the then chairman of the committee, Senator Burrows.

Mr. BAILEY. Well, you got a committee copy. That is what I have said.

Mr. SMITH of Michigan. He sent it to me here on the floor and I read it carefully. I am not going to say by my vote on this resolution that the President of the United States did not have it, and that he did not have as much information on this case as other men had, and possibly more.

A careful reading of the letter to Col. Roosevelt does not disclose that President Taft was attempting to influence Senators in their vote. The language in the letter to Col. Roosevelt is that he asked certain Senators to read the testimony. Is that an offense? I know of no impropriety in such a course.

I believe that the Senator from Texas aims at a very worthy end, and if it were his farewell to his associates here it would be entirely worthy of him, but I do not propose to be put in the position of criticizing the President of the United States for anything he has attempted to do with Senators in the settlement of the Lorimer case, and if my voting "yea" on this resolution would be regarded as a personal rebuke I should hesitate a long time before I so voted.

I do not believe the President of the United States could influence the men he has mentioned by name in that letter. I do not believe he could influence the Senator from Ohio [Mr. BURTON], although he is his friend. Every man in this Chamber knows that the Senator from Ohio is an honest man and that he decides public questions for himself. Neither do I believe that he could influence the Senator from New York [Mr.

Root]. I am certain he did not influence the Senator from Massachusetts [Mr. LODGE], because, as I recollect it, the Senator from Massachusetts did not speak at all on the case. The Senator from Idaho [Mr. BORAH] was not called to the White House in this matter; he went there of his own volition. What for? For the purpose of influencing the President of the United States to write a letter to Col. Roosevelt; and he succeeded in his mission, as the record shows. He did not go there at the President's request; and I think it is a far cry to say that the course of the President of the United States determined the conduct of Senators in a matter of such importance. For my own part, I am unwilling to thus stigmatize his motive, which I believe to have been praiseworthy. He has not undertaken to influence me, and I do not believe he has ever undertaken to influence the Senator from Texas—

Mr. BAILEY. And nobody else has.

Mr. SMITH of Michigan. Nobody has any influence with the Senator from Texas [laughter]; nobody tries to have, because all know that he is well informed and of such sturdy stock that he does his own thinking; and as a humble Senator on this side of the Chamber no one values his public service more highly than I do, but for us to formally sit here all day considering the desirability of building a new constitutional fence of pasteboard around the White House and ourselves fixing limitations within which the President may appropriately walk, is little less than grotesque and purely voluntary.

The PRESIDENT pro tempore. The question is on agreeing to the resolution as modified by the Senator from Texas.

Mr. CUMMINS. Mr. President, I ask for the reading of the resolution as it has been amended.

The PRESIDENT pro tempore. The resolution will be read as modified by the Senator from Texas.

The Secretary read the resolution as modified as follows:

*Resolved*, That any attempt on the part of a President of the United States to exercise the powers and influence of his great office for the purpose of controlling the vote of any Senator upon a question involving the right to a seat in the Senate, or any other matter within the exclusive jurisdiction of the Senate, would violate the spirit, if not the letter, of the Constitution and invade the rights of the Senate.

Mr. CUMMINS. Mr. President, the resolution as originally offered by the Senator from Texas was entirely clear; it was incapable of being misunderstood; and I would have voted for it very heartily. I am not so sure with respect to the resolution as it has been amended. It was not long ago that I had occasion to call the attention of the Senate to the invasion which the Executives had been making upon the legislative branch of the Government now for 10 years or more. I pointed out then what seems to me to be the greatest danger of the future, namely, the subordination of the will of the individual legislator to the will of the Executive.

I do not believe that the President of the United States ought to attempt to influence, through his office and his vast power, any Member of the Senate or any Member of the House of Representatives with regard to any duty that he may be called upon to perform. If I may rank impropriety, it is in my judgment a greater impropriety to use the power of his office to induce men in Congress to vote for or vote against a bill which will affect the welfare of ninety millions of people than it is to attempt to influence the judgment of Senators or Members of the House of Representatives with regard to the title of either a Senator or a Member of the House to his seat in Congress.

I recognize that the President has a high function to perform in advising and in recommending legislation through appropriate and honest and open channels, anticipated by the Constitution and provided by the forefathers; but I shall never assent to the new idea, so generally adopted in these days, that it is the party duty of Members of Congress to follow the wishes of the President of the United States because he is the party leader. As for myself, I hold it to be my duty to express my convictions in every vote I cast, free from either the coercion or the influence, not of the President, but of the power of the President.

This resolution, as now sought to be amended, practically says to the country that while we repudiate the effort of a President to use the power of his office to control a vote when the question is concerning the seat of a particular Member or concerning any other subject of which we have exclusive jurisdiction, it is entirely proper for the President to use this power, to use the office which he holds, in order to influence legislation and to direct the course of affairs in that way.

I can not vote for a resolution which makes a discrimination of that kind. I would have been glad to have voted for it in its original form, because it did not involve the influence which it will now involve if passed.

Mr. BAILEY. Will the Senator from Iowa permit me?



Mr. CUMMINS. Certainly.

Mr. BAILEY. I thoroughly agree with the Senator from Iowa that the resolution as drawn ought to have been voted upon without amendment, and it was drawn with reference to that particular question because that is the only question upon which we have the President's word that he has been intervening. Consequently I thought it proper to confine it to that. But I also felt that if it was possible to have a unanimous vote of the Senate asserting that the President ought not to meddle with matters like this it might produce a wholesome effect.

I wish to say to the Senator—I have already said I would not allow any President of my own party or of any other party to undertake to influence my vote on any question—that I do not think this resolution by condemning the other implies that we would not condemn that. The only thing is that this resolution was drawn to fit a particular case. If you can find anything in the record where the President has written a letter saying he was trying to influence Senators on a particular bill I will include that, too.

Mr. CUMMINS. I do not know of any such letter.

Mr. BAILEY. On the ex-President's desk, perhaps, you could find one.

Mr. CUMMINS. But if an oft-repeated statement, repeated during the course of years, is to be accepted, we know that not only the present President of the United States, but the former President of the United States, and possibly some before him, have attempted to secure legislation, not through the ordinary channels of recommendation, but through personal solicitation, and under such circumstances as indicated the withdrawal of favor if the representations were not accepted.

I do not want to criticize either the Chief Executive at this time or the former President, or any President. I do not concur with the suggestion that we have no right to talk with the President of the United States about legislation. I think we have, but there is a vast difference between consulting with him with respect to any duty we have to perform, and recognizing that the power of his office is being exerted upon us in order to accomplish results which he may believe to be wise.

This resolution refers to the power of his office; not to his views as a man, but the power of the office which is overwhelmingly great; and, so far as I am concerned, I intend to do what I can in the future to reestablish the independence and the dignity of the legislative branch of the Government and to restrain the power and the influence of the Executive within proper bounds. It is only because I understood from the Senator from North Dakota that he had offered the amendment which has been accepted by the Senator from Texas, in order that it might be clear that such proceedings as confirmations of nominations and the like were included within this reprimand, and that all other conduct of the Congress or of the Senate might be excluded and thereby we would not condemn the power of the office exercised in order to secure legislation that I have made the observations I have made.

Mr. BAILEY. Mr. President, I wish to say to the Senator from Iowa that I myself do not think it offends against either the letter or the spirit of the Constitution for the President to confer with an individual Senator about an appointment. When the Constitution authorizes the President to make appointments by and with the advice and consent of the Senate, I think the advice might as well be taken in advance of the appointment as not. Of course the consent must be to the appointment, but he makes the appointment by and with the advice and consent of the Senate, and I think there it is permissible. I do not believe, however, it is permissible at any time for him to seek to influence the action of a Senator on any question through the power and influence of his office. I agree with the Senator there.

Mr. CUMMINS. The Senator from Texas and I concur entirely about it. I believe there should be the utmost liberty and freedom of intercourse between the legislative and the executive branches of the Government, but what I mean is this: That no President who values the Constitution of this country or the institutions established under the Constitution can come to the Senate and say to a Senator: "If you do not vote for this measure or that measure you will no longer be recognized as a member of this party." What I mean to say is that a President shall not suggest that if a Senator does not pursue this course or that course, then the favors of the appointing power shall be withheld from him. Those are the things I have in mind, and there are many others of similar character that might easily be enumerated.

Mr. SMITH of Michigan. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Michigan?

Mr. CUMMINS. I do.

Mr. SMITH of Michigan. May I ask the Senator whether he knows of any cases of that kind?

Mr. CUMMINS. I think the Senator from Michigan had better not insist on an answer to that inquiry.

Mr. SMITH of Michigan. I would be very glad to have the answer.

Mr. CUMMINS. Well, then, if the Senator from Michigan wants the answer, I say there have been such instances. I hope that for the harmony of the party to which we both belong he will allow the specific circumstances to remain unmentioned and to be forgotten as rapidly as the human memory can operate.

But to return to this resolution, I really hope that the Senator from North Dakota in his efforts to modify the resolution will not exclude from it those things which I am sure he believes to be just as sacred from improper Executive influence as the subjects which are specifically enumerated.

Mr. BORAH. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from Idaho?

Mr. CUMMINS. I do.

Mr. BORAH. This discussion has taken a wide range with reference to the relationship of the executive to the legislative department. The powers under the Constitution of each department are well understood and the duties are pretty well defined, and it is a question of fact before the American public as to whether the executive department has been encroaching upon the legislative department or whether the legislative department has been encroaching upon the executive department.

Before we take this vote I should like, if it will not interrupt the Senator, to read a statement upon this subject. It is from a ripe scholar, a profound student of American institutions, and now an acknowledged leader in public affairs.

Mr. BAILEY. Is he now a candidate for anything?

Mr. BORAH. I am not reading it with a view of discussing the candidacy of the party, but as the view of one who has deeply reflected upon this subject.

Mr. CUMMINS. Will the Senator from Idaho name the title of the book from which he reads? I shall then be able to determine whether I ought to yield or not.

Mr. BORAH. Will not the Senator yield until he knows?

Mr. CUMMINS. I think the Senator from Idaho had better gratify my curiosity in that respect.

Mr. BORAH. I wish to read from Congressional Government, by Dr. Wilson.

Mr. CUMMINS. I yield.

Mr. BORAH. Dr. Wilson says:

Independently of experience, however, it might reasonably have been expected that the prerogatives of the President would have been one of the most effectual restraints upon the power of Congress. He was constituted one of the three great coordinate branches of the Government; his functions were made of the highest dignity; his privileges many and substantial—so great, indeed, that it has pleased the fancy of some writers to parade them as exceeding those of the British Crown—and there can be little doubt that, had the presidential chair always been filled by men of commanding character, of acknowledged ability, and of thorough political training, it would have continued to be a seat of the highest authority and consideration, the true center of the Federal structure, the real throne of administration, and the frequent source of policies. Washington and his Cabinet commanded the ear of Congress and gave shape to its deliberations; Adams, though often crossed and thwarted, gave character to the Government; and Jefferson as President, no less than as Secretary of State, was the real leader of his party. But the prestige of the presidential office has declined with the character of the Presidents. And the character of the Presidents has declined as the perfection of selfish party tactics has advanced.

It was inevitable that it should be so. After independence of choice on the part of the presidential electors had given place to the choice of presidential candidates by party conventions—

"Tell it not in Gath; publish it not in the streets of Askelon,"

it became absolutely necessary in the eyes of politicians, and more and more necessary as time went on, to make expediency and availability the only rules of selection.

As each party, when in convention assembled, spoke only those opinions which seemed to have received the sanction of the general voice, carefully suppressing in its "platform" all unpopular political tenets, and scrupulously omitting mention of every doctrine that might be looked upon as characteristic and as part of a peculiar and original program, so, when the presidential candidate came to be chosen it was recognized as imperatively necessary that he should have as short a political record as possible, and that he should wear a clean and irreproachable insignificance. "Gentlemen," said a distinguished American public man, "I would make an excellent President, but a very poor candidate." A decisive career which gives a man a well-understood place in public estimation constitutes a positive disability for the presidency; because candidacy must precede election, and the shoals of candidacy can be passed only by a light boat which carries little freight and can be turned readily about to suit the intricacies of the passage.

I am disposed to think, however, that the decline in the character of the Presidents is not the cause, but only the accompanying manifestation, of the declining prestige of the presidential office. That high office has fallen from its first estate of dignity because its power has waned; and its power has waned because the power of Congress has become predominant. The early Presidents were, as I have said, men of such a stamp that they would under any circumstances have made their influence felt; but their opportunities were exceptional. What with quarreling and fighting with England, buying Louisiana and Florida, building dikes to keep out the flood of the French Revolution, and extricating



the country from ceaseless broils with the South American Republics, the Government was, as has been pointed out, constantly busy, during the first quarter century of its existence, with the adjustment of foreign relations; and with foreign relations, of course, the Presidents had everything to do, since theirs was the office of negotiation.

Moreover, as regards home policy also those times were not like ours. Congress was somewhat awkward in exercising its untried powers, and its machinery was new, and without that fine adjustment which has since made it perfect of its kind. Not having as yet learned the art of governing itself to the best advantage, and being without that facility of legislation which it afterwards acquired, the Legislature was glad to get guidance and suggestions of policy from the Executive.

But this state of things did not last long. Congress was very quick and apt in learning what it could do and in getting into thoroughly good trim to do it. It very early divided itself into standing committees which it equipped with very comprehensive and thoroughgoing privileges of legislative initiative and control, and set itself through these to administer the Government. Congress is (to adopt Mr. Bagehot's description of Parliament) "nothing less than a big meeting of more or less idle people."

[Laughter.]

Mr. BACON. When was that? [Laughter.] Not now, I am sure.

Mr. BORAH (reading)—

"In proportion as you give it power, it will inquire into everything, settle everything, meddle in everything."

[Laughter.]

In an ordinary despotism the powers of the despot are limited by his bodily capacity and by the calls of pleasure; he is but one man; there are but 12 hours in his day, and he is not disposed to employ more than a small part in dull business; he keeps the rest for the court or the harem or for society." But Congress "is a despot who has unlimited time, who has unlimited vanity, who has—or believes he has—unlimited comprehension, whose pleasure is in action, whose life is work." Accordingly, it has entered more and more into the details of administration, until it has virtually taken into its own hands all the substantial powers of government. It does not domineer over the President himself, but it makes the Secretaries its humble servants. Not that it would hesitate, upon occasion, to deal directly with the Chief Magistrate himself, but it has few calls to do so, because our latter-day Presidents live by proxy; they are the Executive in theory, but the Secretaries are the Executive in fact.

Mr. HEYBURN. What is the page of that book?

Mr. BORAH. Mr. President, it seems to me we ought to go a little slow in this matter, in view of what may occur in the next few months.

Mr. BACON. Mr. President, I want to say that I hope some of the views expressed there will be entertained by the author after the 4th of March.

Mr. BORAH. I have no doubt they will all be entertained, because every one knows that Dr. Wilson has well-settled views and convictions.

Mr. HEYBURN. Of what kind?

Mr. BORAH. But for fear that we may be called upon to retrace our steps after the Senator from Texas, to the great regret of all of us, shall have left the Senate, we ought to go slowly. I invite your attention to the views of your leader.

Mr. CUMMINS. Mr. President, I have been delighted to hear this extract from the writings of the distinguished candidate of the Democratic Party for President. I assume, however, that he believes that after the 4th of next March the ancient dignity of the presidential office will be restored. I think, however, that inasmuch as he is in favor of the recall of everything, he will be much inclined to recall his estimate of the relative power of the President and of Congress.

Mr. O'GORMAN. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Iowa yield to the Senator from New York?

Mr. CUMMINS. I do.

Mr. O'GORMAN. Did I understand the Senator from Iowa to say that Gov. Wilson has declared himself in favor of the recall of everything?

Mr. CUMMINS. I really meant the recall of all Republican Presidents. I did not intend to speak inaccurately.

Mr. O'GORMAN. I do not think the Senator from Iowa would misrepresent to the country Gov. Wilson's attitude. He has been very accurate in stating his views on certain national problems. He has indicated the policies that he favors and those to which he is not committed. It would of course be an injustice to him to state, as I understood the Senator to remark a moment since, that he favors the recall in all things, because that would be an inaccurate statement to make.

Mr. CUMMINS. Mr. President, I hope the Senator from New York will not take so seriously a suggestion of that sort. I do not remember precisely what Dr. Wilson holds in that regard, but I had in mind his desire for a general readjustment in public affairs.

But to return to the resolution from which we have drifted far: If the resolution referred only to the proper influence of the President in the matters which are mentioned here, I would have no objection to it. But the resolution names that influence which ought not to be exercised by the President under any circumstances or upon any subject. I know very well that

he ought to exercise an influence. His recommendations ought to have great weight. His very position entitles him to great consideration. But the power that is mentioned in the resolution is a power that he can not properly exercise upon Senators in the performance of their duties. Therefore it seems to me we ought not to select certain things that come within the jurisdiction of the Senate and say that as to them the President ought not to interfere or meddle, leaving the inference that as to all others he may justly and properly exercise this unwarranted power.

Mr. BURTON. Mr. President, if this resolution were offered under other circumstances or at another time there would be nothing objectionable in it. It states a principle which is universally accepted. It censures the exercise of the powers and influence of the presidential office for the purpose of controlling the vote of any Senator. That seems to imply some degree of compulsion, of undue influence, as by the bribery of patronage.

But how can we disabuse our minds of the idea that this is the aftermath of a controversy relating to a seat in this body which was decisively settled last Saturday? How can we separate this discussion, with its utterances, from alleged acts of the President of the United States during the pendency of the Lorimer case? From this standpoint it seems to me the resolution is altogether objectionable.

I must go rather further than some have gone in this discussion. The relation between the President and Congress is not such as to prohibit him from the freest consultation with any Senator or Representative. He has absolute liberty to offer his advice and suggestions. No impenetrable wall is built up between the Executive and Congress. The hands of the President are not fettered, nor is his tongue tied so that he can not express his opinions, even with earnestness, to any Member of this body or to any Member of the House. And I ask those who are promoting this resolution whether they would have commended the course of the President of the United States if he had kept silent, in view of the great interest and widespread agitation which prevailed relating to the Lorimer case?

The newspapers were discussing it. They were full of paragraphs in regard to it. We were receiving advice from numerous fellow citizens concerning it. An impression prevailed in the country that Mr. Lorimer's selection by the Legislature of Illinois was tainted by corruption. In a way not only was the Legislature of Illinois on trial, but the Senate of the United States. Serious reflections upon our methods of electing Senators were uttered throughout the country.

In view of the mention of my own name in this controversy, I wish right here to say just a word. I think I may speak with entire propriety of a conversation with the President of the United States. He simply asked that I should carefully read the record in the case. There was no urging—

Mr. BAILEY. Did he ask the Senator to make a speech?

Mr. BURTON. I myself stated that I would make a speech after I had read the record in the case. Possibly he may have asked me—I say this in order to be entirely accurate—to make a speech in case I came to a conclusion in regard to it. However, I do not at this moment recall his having made that request.

The request was made some time before the holidays. It is idle to claim here that the President had not the opportunity to obtain knowledge of the case. On the 21st day of December the record of testimony was completely made up. The number of pages was stated by Mr. Beveridge on that day in the discussion on the floor of the Senate. By going to the room of Senator Burrows Members of this body who desired it could obtain a complete copy of the record before the holidays commenced.

It seems to me, Mr. President, the course of our Chief Magistrate was that of the leader of his party.

Mr. BAILEY. Is this a party question?

Mr. BURTON. It is decidedly a party question. No party could allow a Senator to occupy a seat in this body if that seat was obtained by bribery and fraud without a reflection against it, not merely in this body, but from the Atlantic to the Pacific.

The party has the responsibility to purge itself of corruption in elections in any legislative body controlled by it. The President is not alone Chief Magistrate. He is the head of his party. He is the first citizen of the Republic.

Mr. BAILEY. Which head of it now?

Mr. BURTON. I hardly know what the Senator from Texas has in mind, and I think I will not take time to answer that question.

The President's advice is eagerly sought. He is in a position to understand the currents of public opinion. He is peculiarly able to determine what is right, and if he fails to use the great powers of his office he is failing in his duty.



I know it is an ungracious task in any way to speak in the least degree critically of a legislative body, but, Mr. President, this Senate or any other Senate or any House is strong or weak, efficient or inefficient, just in proportion as it meets the great issues of the day. We must concede that many legislative bodies have not proven equal to the great occasions which have confronted them. At such times the Executive looms large.

The Executive has often been a commanding figure and exceeded the normal boundary of his power when Congress cooperated with him. Abraham Lincoln made the remark that he thought it very likely that the Constitution would be subjected to some most severe strains for a time. In that great emergency he often assumed powers which belonged to Congress.

Mr. BAILEY. Mr. President—

Mr. BURTON. I am not contending for a minute that he did in violation of the Constitution.

Mr. BAILEY. Would the Senator—

Mr. BURTON. But at this time and at all times the people of the United States will commend a strong and a forceful Executive.

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Texas?

Mr. BURTON. Certainly.

Mr. BAILEY. I want to be certain that I do not misunderstand the Senator. I understood the Senator to say that in such a time the Executive ought to assume the powers of Congress.

Mr. BURTON. I did not say that. I expressly qualified what I said by stating that I did not believe in any violation of the Constitution, but that at times, as in the case of Lincoln, he went beyond the ordinary constitutional powers of the President.

Mr. BAILEY. We have charged that, but your party have been denying it all the time.

Mr. BURTON. Well, I admit it, and I glory in it. He had to meet the emergencies of the times, and he met them courageously. Your party, or at least a portion of it, commends President Lincoln, who oftentimes went to the very verge of his constitutional prerogatives. Your party, or at least a portion of it, commends Andrew Jackson, who also went to the very verge.

Mr. BAILEY. Will the Senator be good enough to specify a single instance in which Mr. Cleveland went even, as he calls it, to the very verge?

Mr. BURTON. Oh, well, there was the matter of appointments. He paid little attention at times to Congress.

Mr. BAILEY. He had a right to pay no attention to it. To be accurate, that was not going to the verge. He had a right to pay no attention to Congress except to its confirmation of appointments. That does not even strain the Constitution. Will the Senator—

Mr. BURTON. I want to say to the Senator from Texas that I am going into no enumeration of them.

Mr. BAILEY. There is nothing of that kind to be enumerated.

Mr. BURTON. The Senator knows that President Cleveland oftentimes regarded it as incumbent upon him to go ahead, and he exercised certain powers without much regard for the action of Congress.

Mr. BAILEY. So that—

Mr. BURTON. This resolution will, under the circumstances, cast a reflection upon the President.

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from Texas?

Mr. BURTON. Here on Saturday we disposed of a case involving a seat in this body. There have been rumors concerning the activity of the President in connection with it.

Mr. O'GORMAN. Mr. President—

Mr. BURTON. I maintain that he not only did no more than his duty, but he would have been wanting if he had not taken any interest in that case.

The PRESIDENT pro tempore. Does the Senator from Ohio yield to the Senator from New York?

Mr. BURTON. I believe the Senator from Texas first had the floor to interrupt me.

Mr. BAILEY. Mr. President, I only wanted to say that when the Senator rises in his place and says a President of the United States has gone to the very verge of violating the Constitution he ought to be able to specify it. I was not a partisan of Mr. Cleveland within the party; in fact, I was a very young man in the House then and the very first one to break with him in the House of Representatives; but I do not believe any man ever occupied that great office who more religiously respected the Constitution of this Republic than Grover Cleveland did. I do not believe the Senator has a right in this place or

elsewhere to treat a violation of the Constitution as a matter to be lightly regarded, and I think the Senator ought to be able to specify some case.

Mr. BURTON. The Senator knows very well that President Cleveland regarded it as incumbent upon him to take action in cases in which action is not usually taken except by authority of Congress. If I might repeat a private conversation of his I could state his opinion with reference to the relation between Congress and the President. I prefer not to do so, however. It was made on the very last day of his second term in a conversation with his successor.

Mr. BAILEY. Any association with the Senator from Ohio would beget that kind of opinion in the mind of any man judged by the way he expresses himself here.

Mr. BURTON. I yield to the Senator from New York.

Mr. O'GORMAN. Mr. President, I did not care to interrupt the Senator from Ohio, but having in mind the same thought that was moving the Senator from Texas it does seem to me that when a member of this body makes such a serious statement reflecting upon the conduct of a President of the United States the Senator making the statement should be able to indicate the incident which justifies the statement made here.

Mr. BURTON. What does the Senator from New York say in regard to marching troops into Chicago and his action at the time of the railroad strike?

Mr. O'GORMAN. Is that the incident upon which the Senator from Ohio bases his charge that Grover Cleveland acted in defiance of the Constitution?

Mr. BURTON. I am simply asking the question.

Mr. O'GORMAN. It is the Senator from New York who is asking a question. If that is your justification for the statement reflecting upon the life and character of Grover Cleveland, I leave it to the judgment of the country as to whether the Senator has any justification for the assertion.

Mr. BURTON. I asked the Senator from New York a question, and I should like to have him answer it. I meant no reflection on Grover Cleveland. I expressly disclaimed anything of that kind. His strength as an Executive I admire.

Mr. O'GORMAN. And yet you have declared that as President he acted in disregard of constitutional limitations.

Mr. BURTON. He went to the very verge, I said.

Mr. O'GORMAN. You have indicated the only instance that justified that opinion.

Mr. BURTON. His general reputation for an extreme degree of independence as an Executive justified me, I think, in making the statement. I think both the Senator from New York and the Senator from Texas have been unduly aroused because of the statement I made, which meant no reflection whatever on the character of a Chief Magistrate for whom, although he belonged to another party, I had the greatest admiration.

Mr. TOWNSEND. Mr. President, I am in sympathy with that constitutional provision which creates three separate and distinct departments of government—the legislative, executive, and judicial—and a Senate resolution commending that provision is always in order. But what object is to be obtained by this resolution? As I understand it, it is a protest by a majority of the Senate against coercion on the part of the Executive. It is equivalent to an admission on the part of Senators that they have been improperly influenced by the President and a demand that he shall cease such influence. They object to being coerced. The situation of Senators is quite like that of the bribe taker when he complains of the bribe giver. I can not understand how we can in sincerity and reason pass such a resolution as this, for we will thereby admit that we have been subject or are subject to improper Executive influence. If we are falling short of our full duty and full responsibility, it is certainly our own fault. One familiar with recent events must smile when he listens to complaints of Executive interference with a Congressman's duties. These complaints would indicate that the President was coercing Senators and Representatives into obeying his orders and forcing them to yield up their wills to his. But if we are to believe the newspaper reports national legislators are not waiting for presidential nominees to be elected in order to offer their services, but they are going to these nominees to find out what kind of legislation the candidates want in order that their desires may be fulfilled. It is not a case of yielding, but of voluntary surrender.

I submit, Mr. President, that we might better pass a resolution rededicating ourselves to our sworn duty. There can be no coercion if there is no one to coerce. Let the Senate, without fear or favor, perform its full duty and presidential influence will be ineffectual.

I am in hearty sympathy with the principle of noninterference by one department of government with another, but this resolution will not accomplish that condition. I think the

letter from President Taft to Col. Roosevelt was an unwise and a foolish one to write, but I see nothing in it, nor has anything been produced which proves that improper influence was exerted by the President upon any Senator. Indeed, every Senator mentioned in that letter and every one who has spoken on this subject to-day has denied that the President attempted to influence him in the Lorimer matter, and certainly some of these Senators will not be accused of having so testified because of their friendship for the President. It seems to me as though we are asked to fire blank cartridges at an imaginary object. If any Senators know that they have been improperly influenced by the President let them first resolve to reform themselves before attempting to reform the Executive. The constitutional provision will not be strengthened by adopting the pending measure. I may not properly understand the true nature and object of this resolution, but it seems to me to be an attempt to shift responsibility for wrongdoing, if there be wrongdoing, from the Senate to the President. Presented as it is at this peculiar and particular time it is not accompanied with that presumption of disinterested good faith which should command support, and I shall therefore feel it to be my duty to vote against it.

Mr. CRAWFORD. Mr. President, if no stronger specific reasons can be presented for this resolution than those brought out in connection with the names of certain Members of the Senate in relation to speeches they may have made or conversation they may have had with President Taft in relation to the Lorimer matter, then it seems to me the resolution has very little indeed to justify it.

Others have mentioned what occurred between them and the President in relation to this testimony. My name happened to be connected with the letter, and I simply take the opportunity to say that, as others did, I procured a copy of the testimony from some member of the committee, from whom I can not now name, because I do not remember who it was; but I had a copy of the testimony before the holiday recess, and I remained in Washington during the holidays. I was here some two weeks, and had nothing else to do except to read that testimony, and I did so during that interval. I had read it and in a measure re-read it, and made notes upon it, and had blocked out a speech I intended to make to the Senate analyzing it. After all that had been done incidentally I happened to be at the White House, and as a part of a general conversation on other matters the President expressed the wish that I might examine that testimony and take a keen interest in the case, because he thought it one of very great importance.

Now, do incidents of that kind justify a resolution like this, a resolution which implies that the Senate has become so helpless that it must put upon record something to apprise the country that it protests against being controlled by the President of the United States in casting its votes in this body? It seems to me we humiliate ourselves when we place upon the record here language of that kind.

Mr. McCUMBER. Mr. President, may I ask the Senator one question?

Mr. CRAWFORD. Certainly.

Mr. McCUMBER. How did it happen that the request to read the testimony was made only of those Senators who had a conviction on one side of the question?

Mr. CRAWFORD. I know nothing about that. I do not know anything as to how it came about with reference to other Senators, except as they have mentioned it here. I am simply stating how it occurred so far as I am concerned.

And, Mr. President, has it come to this, that when we go to the White House, when we are engaged in incidental conversation with the President of the United States, there must be a padlock on his mouth and a padlock on ours with reference to all public questions that are being considered in the legislative department?

I hope the relations between the legislative department of the Government and the Chief Executive may never be so stilted and so environed and so hedged about that we do not dare even to enter into a conversation with him freely and unrestrainedly about matters that may be pending here for fear we are placing ourselves under undue influence that may not only affect our votes in a general way by perhaps securing information that may be of assistance to us, but which may control our votes.

Mr. BACON. Will the Senator permit me to ask him a question?

Mr. CRAWFORD. Certainly.

Mr. BACON. Would the Senator consider it a proper thing for the President of the United States to consult with a Senator as to what verdict he shall give upon the impeachment case we are about to enter upon the trial of?

Mr. CRAWFORD. I do not.

Mr. BACON. You do not think it would be proper?

Mr. CRAWFORD. I do not—to influence the verdict of a Senator in this case.

Mr. BACON. Very well. Is there any more serious impropriety involved in that than there would be in trying to influence a Senator as to what his vote should be in determining the right of a Senator to a seat in this body?

Mr. CRAWFORD. I do not understand, if the Senator will permit me, that the President of the United States undertook to influence any Member of the Senate in his judgment or in his conclusion.

Mr. BACON. I am not taking issue with the Senator upon that and I am not speaking of this concrete case, but I am making that inquiry of the Senator in view of the statement which just fell from his lips that there was no impropriety in the President talking with a Senator and trying to influence him about anything that pertained to his duties in this Chamber. That was practically what the Senator said.

Mr. CRAWFORD. Oh, no.

Mr. BACON. It was with a view to that that I asked the question about the impeachment trial.

Mr. CRAWFORD. I made no statement about the President seeking to influence Senators as to any conclusion. I granted that if the President should undertake to use his great power and patronage by holding a temptation of reward if votes were favorable before a Member of the Senate in order to secure that vote or to hold before him the punishment that might follow by refusing to recognize him in matters of that kind would be an offense; and if we have any offense of that kind to which we may address ourselves here, let us address ourselves to it. But no charge of that kind is laid at the door of the President. During the short time I have been in Washington I have never seen any evidence, so far as my personal experience goes, that any such influence as that has been exercised. I am not a special friend of the President; just now I am at a considerable distance from him politically; but fairness compels me to say that I have never observed in the slightest degree a disposition to exercise influence of that kind over Members of this body.

Mr. BACON. I want to say to the Senator, Mr. President, that my inquiry was not addressed as to what this particular President has done, but was addressed to the general statement which the Senator made as to what would be proper for a President of the United States to do in trying to influence a Senator as to his duties here—any President, not this President.

Mr. CRAWFORD. The Senator misunderstood me if he drew the conclusion that I was justifying any improper influence of any sort upon the part of the President on Members of the Senate; but I do say that general, free discussion, such as may occur between two citizens of this Republic anywhere in relation to public questions, is not an improper attempt to influence when they occur between the President of the United States and a Member of the Senate of the United States. If they are proper elsewhere, they are proper between these officials.

Mr. BACON. Mr. President, replying to the statement just made by the Senator, I want to ask him to consider if that would be proper in the case of an impeachment trial?

Mr. CRAWFORD. That is a different thing entirely.

Mr. BACON. Why so?

Mr. CRAWFORD. I am referring to open public questions that are in the forum for discussion; and I am referring to a discussion that would be proper, and admittedly proper, between a Senator and a private citizen. I say if proper between a Senator and a private citizen, the same discussion would be proper between the President and a Member of this body.

Mr. BACON. Even if it related to an impeachment trial?

Mr. CRAWFORD. I did not say that it would be proper for the Senator to go out and talk with John Doe on the street, discussing the weight of the testimony being heard here in an impeachment proceeding. If it would be, it would be just as proper if he conducted the conversation with the President of the United States.

Mr. BACON. I voted, as the Senator from South Dakota knows, against Mr. Lorimer's right to a seat, so that what I say can not be personal to that controversy; but I want the Senator, if he can do so, to differentiate between the gravity of the case of a Senator's right to his seat to be determined by the Members of the Senate, and the right of a judge to his office, to be determined by the Senate. What makes one any more sacred than the other?

Mr. CRAWFORD. I am not differentiating in saying that, so far as the language of this conversation was concerned, there was no attempt in it, so far as it came within my experience, to use any influence whatever.

Mr. HITCHCOCK. Mr. President, I should like to ask the Senator a question.



The PRESIDENT pro tempore. Does the Senator from South Dakota yield to the Senator from Nebraska?

Mr. CRAWFORD. I do.

Mr. HITCHCOCK. I ask whether the Senator approves the language of the President in the letter which has been read here, to the effect that he thought he was going to succeed in lining up the regular Republican Senators to oust Lorimer?

Mr. CRAWFORD. I do not. I knew nothing about that until I saw it in the letter.

Mr. BACON. That is the letter which was supposed to be considered in connection with it.

Mr. CRAWFORD. I am not discussing that part of it. I am simply discussing, so long as my name was connected with it, that particular feature of it, that part which was within my own experience; that is all.

Mr. HITCHCOCK. This is the very gravamen of the case; it is the very center, as I consider it, of this whole case, that the President was engaged in "lining up" Members of the Senate who were to vote upon that important trial. Suppose he used that language in connection with this impeachment proceeding, suppose he had published a letter that he was engaged in lining up the Senators to vote one way or another on the impeachment proceeding, would not that be an evident invasion of the rights of the Senate?

Mr. CRAWFORD. I have not undertaken to discuss the proprieties of this letter in any way, manner, shape, or form. I am simply discussing what occurred so far as it came within my knowledge between the President and myself as a Member of the Senate.

Mr. HITCHCOCK. Yes; but I ask the Senator, does not the letter reveal and demonstrate what it was that the President was actually doing? It is his own admission as to what he was doing.

Mr. CRAWFORD. I think the Senator from Nebraska perhaps construes it as going further than I do; but I do not entirely justify such a letter.

Mr. President, I did not rise to indulge in any extended remarks in regard to this resolution. There is a jealousy, and there always has been jealousy, between the legislative and the executive departments. There is a jealousy between the legislative and the judicial departments. It is well that it is so; it is intended that it should be so, in order that each of these departments might be a check upon the other; but I dare say there is more truth than there is error in what has been read here this afternoon from the textbook written by the distinguished candidate of the Democratic Party for the Presidency—that it has probably been more often true that the legislative department has sought to trench upon the functions of the executive department than the Executive, in these later years, since Andrew Jackson's time, has undertaken to trench upon the legislative.

Mr. McCUMBER. Mr. President, I am ready to vote for any resolution that shall reassert the ancient independence of the Senate of the United States as against Executive usurpation of its functions or its rights. I am willing to vote for a resolution of that character that is entirely distinct and does not connect itself in any way with the Lorimer case. I asked for the amendment of the resolution offered by the Senator from Texas because I could see the danger of a misconstruction of the resolution if we applied it to cases other than those which were exclusively within the jurisdiction of the United States Senate. The word "improper" is not used; the words "improper powers and influence" are not used, but "the powers and influence of his great office."

The President has a right to recommend legislation, and I do not wish a resolution which shall say to me that I can not go to the President and receive his advice and instruction and information that he may have upon matter which he recommends or anything that he believes ought to be made a part of our legislation; but I can see a wide gulf between that and the recommendation or advice of the President upon a question of the right of a Senator to his seat in the Senate of the United States or upon the question of an impeachment trial. I can go to the President, and the President has a right to send for me, to influence me upon legislation which he thinks ought to be enacted; but he has no right, in my opinion, to suggest in any way, shape, or form what his conviction is upon a case like the trial of the right of a Senator to his seat in the United States Senate.

That is a judicial right, and I ought not to be influenced by his opinion. If he has evidence to give in any way, that evidence should come before the Senate and should be digested by the Senate; but the advice of the President should not be received. I am free to say that I think the President went a little outside of his functions as an Executive if he was exercising

his influence in any way to line up Republicans on one side or the other; and I would not be his honest friend if I failed to say so.

But, Mr. President, we know that the wishes of the Executive do influence Senators. We saw its effect last year; we felt its effect in the preceding administration in its influence upon legislation far more than during the last administration. I should like to see the Senate more independent in that matter than it has been, and yet, at the same time, I would not advocate a resolution which should say that I can not go to the President, because by reason of his great office he may influence me upon legislation which he has a right to recommend to me in his annual messages.

I felt, therefore, that I should request that this resolution be so worded that it should relate only to those things which are exclusively within the jurisdiction of the Senate and in which the Senate acts more in a judicial than in a legislative capacity. So, Mr. President, I think that the amendment ought to go in; but if anything is to be changed, the word "exclusively" might go out, though I should prefer that it should remain in the resolution.

Mr. JONES. Mr. President, a few days ago, in an address I delivered in the Senate on the Lorimer case, I criticized the President for his action in connection with it. That criticism was based entirely upon the letter which the Senator from Texas has read and upon the statements made therein. It looks to me, however, as if that letter stated the matter possibly a little bit stronger than was actually the case, because those who have referred here to-day to their conversations with the President, it seems to me, have stated nothing that was improper on the part of the President. I think it is but fair that I should say that while I am not honored by being mentioned in the letter the Senator has read, I was spoken to by the President with reference to the matter; but the extent of that was simply this: As the Senator from South Dakota has stated with reference to his interview with the President, I was visiting the President in regard to some other matters, and when I got ready to leave the President asked me if I was considering the Lorimer case.

I told him yes, and he simply made the request that I should look into it very carefully, without asking me for my views or expressing his views, or anything of the sort. Now, I do not believe that that was improper, but it did seem to me—

Mr. BAILEY. What business was it of his whether you looked into it or not?

Mr. JONES. Well, I suppose he was simply interested as any citizen is interested in a matter of that importance.

Mr. BAILEY. Suppose you try that on a judge; suppose, as a citizen interested in a case in his court, you go and tell him that he ought to look into it, and see what will happen. He will put you in jail.

Mr. JONES. The President did not say that I ought to look into it; he said he hoped that I would do so; and that was the extent of it. I do not think there was anything wrong about that. There was no suggestion—

Mr. BAILEY. If the Senator will permit me, the President explains in this letter exactly why he was soliciting Senators. He says, "I want to win."

Mr. JONES. I condemn the President for that letter absolutely; I am simply relating this as merely a statement of what occurred between the President and myself, which, if it had gone no further, I do not really consider would have been improper. I did condemn the President the other day upon the statements made in that letter, which indicate that he went much further with others possibly than he did with me.

Mr. BAILEY. But the Senator said a moment ago that the President merely did it as any other good citizen, and I suggested that if the Senator tried the same experiment on a judge, the judge would not regard that as advice tendered by a good citizen; the judge would regard that as a contempt of his court, especially if you were to follow the suggestion with a statement, such as the President made, and tell the judge you wanted to win that case. The President was not asking the Senator to examine it out of a mere general, indefinite interest in it; he was asking the Senator to examine it because he wanted to win that case, although he was not a party to the record, and had absolutely no right to intervene.

Mr. JONES. As I have said before, in my conversation with the President there was nothing of the kind indicated in the letter here. Of course, if there had been anything of that kind said, I think I should have resented it at once; but I did not consider the suggestion that the President made, so far as it went with me, as anything improper, and I do not think so yet; but the statement in the letter of the President indicates, of course, that he went much further with others.

Mr. WORKS. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Washington yield to the Senator from California?

Mr. JONES. Certainly.

Mr. WORKS. I should like to ask the Senator from Washington if he knew, either by anything that was said by the President or otherwise, whether the President was for or against Mr. Lorimer at that time?

Mr. JONES. I did not. The President did not indicate to me what his views were or as to whether he had any views.

Mr. WORKS. And the Senator had no knowledge from any other source?

Mr. JONES. I did not.

Mr. WORKS. According to the statement of the President himself, he was trying to "line up" Senators, and they, in their innocence, were not aware of it.

Mr. BAILEY. But he did line up all with whom he talked, his way.

Mr. JONES. I desire to suggest that possibly the President may have gone farther with some than he did with me, because I have stated all that occurred with reference to my conversation with him in regard to this matter.

I desire simply to say further, Mr. President, that when this resolution was first presented I felt like voting for it; in fact, I said to some Members of the Senate that I expected to vote for it; but, on reflection, I am inclined to think that the best course for the Senate and for Senators to take is to show by their action that they do not propose to be influenced by attempts of the Executive to influence them in any of these matters; that it will not impress the country with our opposition to Executive interference by simply passing a resolution condemning the President for trying to influence us; but, if by our action as Senators and as a Senate we show to the country that we are not influenced by Executive interference, there will not be very much Executive interference or attempts at interference upon the part of the Executive.

Mr. BAILEY. Will the Senator permit me to say that it is not enough for a man to show by his conduct that he is not improperly influenced? He owes it to his self-respect to say that he resents every effort to improperly influence him. Our courts would fall into universal contempt if our judges would allow men to come to their chambers in an effort to influence their judgments without regard to the law or the evidence, and then throw their cloaks about them and say, "I did not send the man to jail, although he insulted me and offered me a bribe; but I showed him that I was above it." That is not sufficient.

Mr. JONES. I desire to say to the Senator from Texas that if I had thought the President of the United States had tried to influence me either for or against Senator Lorimer, I would have resented it; but I did not then, and I do not now, consider that he tried to do so, unless possibly the matter is viewed in connection with the letter which the Senator has read, because, as I have stated to the Senator from California, I did not know what the views of the President were in regard to the case and he did not indicate them to me one way or the other. He did not ask me for my views or anything of the sort, but simply, as I was going out, suggested that I look into the matter very carefully.

I will say, in line with some suggestion, I think, made by the Senator from Idaho, that there was an impression at the time the committee made its report—the report being very nearly unanimous—that the Senate might pass upon the matter without any particular discussion. I remember hearing it said that it was the usual custom of the Senate in election cases of this kind, where the report was unanimous, as a matter of course to accept the report, and while this report was not unanimous, it was so nearly so that some suggested that it might pass in the same way. I am not so sure but that possibly the President had heard something of that sort, and that he probably thought it was a matter of so much importance that the Senate ought not to pass upon it in that way.

While, of course, he ought to assume that we would do our duty, yet I did not consider it improper for the President, in an important matter of that kind, simply to express the hope that we look into the matter very carefully.

Mr. BAILEY. Well, the Senator's excuse for the President makes it apparent that the President was trying to influence the action of the Senate in a matter committed exclusively to the Senate.

Mr. JONES. I did not say that the President was acting from those motives. I say, while that is possibly the reason he made the suggestion to me—

Mr. BAILEY. He said so in his speech.

Mr. JONES. As I have said, I condemned the President in my speech the other day because of the statement made in that letter, and I have no excuse for the President acting along the line suggested in that letter.

Mr. BAILEY. Does the Senator believe that the Senate of the United States, with this letter of the President before it in the most formal way, because the President not only used it in a public speech, but the Senate itself has made that speech a public document—yet with all of this in its archives showing that the President not only sent for Senators and tried to talk to Senators about this matter, but that he also wrote a letter in which he said he was trying to "line up" Senators; that he "wanted to win"; and that he was afraid the Senate would not do its duty with reference to the report—with that kind of information a part of the records of the Senate, does the Senator think the Senate of the United States can preserve the respect of the people and pass it sub silentio?

Mr. JONES. As I have stated, I should vote for the resolution as originally introduced by the Senator from Texas, but as modified I am not inclined to support it.

Mr. BAILEY. I think the Senator is right, because we have nowhere in our records, whatever we may have floating through the air and in our minds as rumors, any proof that the President has ever attempted to interfere with the functions of the Senate except in this particular case, and I am absolutely certain we ought to confine it to this particular case.

But I yielded because I thought it was so vital that the Senate declare its resentment against Executive influence that I yielded in the hope that we might get a practically unanimous vote. However, I want to say to the Republican stalwarts or the Republican regulars, as the President calls them, that if they are not willing to do that, then we will see if we can not pass the resolution as originally introduced.

Mr. JONES. Mr. President, as I said before, I would much rather vote for the resolution as originally proposed than with the amendments which have been suggested. I am firmly of the opinion that really the best way for us to assert ourselves in this matter is to show not only as individual Senators, but as a Senate, that we are not going to allow Executive interference, rather than by passing resolutions and then going on just as we have been doing in the past.

Mr. WORKS. Mr. President, I am in favor of the pending resolution because it declares a correct and vital principle. It does not matter very much to me whether it reflects upon somebody or not, because if it does so it can only reflect upon the President, because he has violated that principle.

Senators whose names have been mentioned in connection with this matter say unqualifiedly that they have not been influenced; that they did not even realize that the President was attempting to influence their action; but the President must be judged by what he himself has said. His letter shows exactly what his purpose was. He says in so many words that he was attempting to line up the Senators, the Members of this body, against Mr. Lorimer, and that he was attempting by that means to win.

Now why should we hesitate with respect to this matter in passing this resolution because it may reflect upon the President when we consider what he himself has said with respect to it? This is an extreme case just because it was not ordinary legislation. It was a matter which was within the exclusive jurisdiction of the Senate, a matter over which the President had no control, with which he had no right to deal in any way whatever.

Therefore when we reach that point in the administration of the affairs of this Government where the President of the United States openly confesses that he has attempted to influence the Senate of the United States with respect to a vital matter of that kind, I think it is about time the Senate should take action if it does amount to a rebuke of the President of the United States.

Mr. CUMMINS. I move to amend the resolution by striking out the words "within the exclusive jurisdiction of the Senate" and inserting "relating solely to the duties of Senators."

The PRESIDENT pro tempore. The amendment proposed by the Senator from Iowa will be stated.

The SECRETARY. It is proposed to strike out the words "within the exclusive jurisdiction of the Senate," and in lieu thereof to insert "relating solely to the duties of Senators."

The PRESIDENT pro tempore. The question is on agreeing to the amendment proposed by the Senator from Iowa. [Putting the question.] The Chair is in doubt. The Chair will again put the question.

Mr. BAILEY. Let the amendment be again reported.

The PRESIDENT pro tempore. The amendment will again be stated.



The SECRETARY. It is proposed to strike out the words "within the exclusive jurisdiction of the Senate" and in lieu thereof to insert "relating solely to the duties of Senators," so that if amended the resolution will read:

*Resolved*, That any attempt on the part of a President of the United States to exercise the powers and influence of his great office for the purpose of controlling the vote of any Senator upon a question involving the right to a seat in the Senate or any other matter relating solely to the duties of Senators would violate the spirit, if not the letter, of the Constitution, and invade the rights of the Senate.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment was rejected.

The PRESIDENT pro tempore. The question is on agreeing to the resolution of the Senator from Texas as amended. [Putting the question.] The Chair is in doubt.

Mr. BURTON. Let us have the yeas and nays.

Mr. TOWNSEND. I call for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. CLARKE of Arkansas (when his name was called). I have a pair with the senior Senator from Rhode Island [Mr. WETMORE]. I do not see him in the Chamber, and therefore withhold my vote.

Mr. CULLOM (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. CHILTON], and therefore withhold my vote.

Mr. MARTINE of New Jersey (when the name of Mr. CURTIS was called). I have been requested to announce that the Senator from Kansas [Mr. CURTIS] is paired with the Senator from Arkansas [Mr. DAVIS].

Mr. SHIVELY (when Mr. KERN's name was called). My colleague [Mr. KERN] is unavoidably absent from the Chamber. He is paired with the junior Senator from Tennessee [Mr. SANDERS].

Mr. PAYNTER (when his name was called). Owing to a general pair which I have with the Senator from Colorado [Mr. GUGGENHEIM], I withhold my vote. If he were present, I would vote "yea."

Mr. OLIVER (when Mr. PENROSE's name was called). My colleague [Mr. PENROSE] is absent from the city and is paired with the Senator from Mississippi [Mr. WILLIAMS]. If my colleague were present he would vote "nay."

Mr. DU PONT (when Mr. RICHARDSON's name was called). My colleague [Mr. RICHARDSON] is unavoidably absent from the city. He is paired with the junior Senator from South Carolina [Mr. SMITH]. If my colleague were present he would vote "nay."

Mr. SANDERS (when his name was called). I have a pair with the junior Senator from Indiana [Mr. KERN]. If I were at liberty, I should vote "nay."

Mr. SMITH of South Carolina (when his name was called). I have a general pair with the Senator from Delaware [Mr. RICHARDSON]. I transfer the pair to the Senator from Oklahoma [Mr. GORE] and will vote. I vote "yea."

Mr. WARREN (when his name was called). I have a general pair with the senior Senator from Louisiana [Mr. FOSTER], who is detained from the city. I therefore withhold my vote.

Mr. WILLIAMS (when his name was called). I have a general pair with the Senator from Pennsylvania [Mr. PENROSE]. If he were here and I were at liberty to vote, I should vote "yea."

The roll call was concluded.

Mr. HEYBURN. I have a general pair with the senior Senator from Alabama [Mr. BANKHEAD]. I see he is not present, and I therefore withhold my vote. Were I at liberty I would vote "nay."

Mr. BRADLEY. I am paired with the senior Senator from Maryland [Mr. RAYNER] and therefore withhold my vote.

Mr. HITCHCOCK. I desire to announce that my colleague [Mr. BROWN] is paired with the senior Senator from Oklahoma [Mr. OWEN].

Mr. MARTIN of Virginia. The Senator from West Virginia [Mr. WATSON] is paired with the Senator from New Jersey [Mr. BRIGGS]. If the Senator from West Virginia were present, he would vote "yea."

Mr. BAILEY. Notwithstanding my pair with the Senator from Montana [Mr. DIXON], I have voted; and I desire the RECORD to show that I did that in accordance with an understanding with him on this particular question.

Mr. JONES. I desire to state that my colleague [Mr. POINDEXTER] is unavoidably detained from the Chamber. If he were present I do not know how he would vote on this question.

Mr. OLIVER. The Senator from Rhode Island [Mr. LIPPITT] is unavoidably detained from the Chamber. If he were present and at liberty to vote he would vote "nay." He is paired with the senior Senator from Tennessee [Mr. LEA.]

The result was announced—yeas 35, nays 23, as follows:

YEAS—35.

Ashurst	Fletcher	Newlands	Smith, Ga.
Bacon	Gallinger	O'Gorman	Smith, Md.
Bailey	Gardner	Overman	Smith, S. C.
Bourne	Hitchcock	Percy	Stone
Bryan	Johnson, Me.	Pomerene	Swanson
Chamberlain	Johnston, Ala.	Reed	Thornton
Clapp	McCumber	Shively	Tillman
Culberson	Martin, Va.	Simmons	Works
Fall	Martine, N. J.	Smith, Ariz.	

NAYS—23.

Borah	Crawford	McLean	Root
Brandeggee	Cummins	Massey	Smith, Mich.
Bristow	du Pont	Nelson	Smoot
Burnham	Gronna	Oliver	Sutherland
Burton	Jones	Page	Townsend
Catron	Kenyon	Perkins	

NOT VOTING—36.

Bankhead	Curtis	Kern	Poinexter
Bradley	Davis	La Follette	Rayner
Briggs	Dillingham	Lea	Richardson
Brown	Dixon	Lippitt	Sanders
Chilton	Foster	Lodge	Stephenson
Clark, Wyo.	Gamble	Myers	Warren
Clarke, Ark.	Gore	Owen	Watson
Crane	Guggenheim	Paynter	Wetmore
Cullom	Heyburn	Penrose	Williams

So Mr. BAILEY's resolution as amended was agreed to.

HOOR OF MEETING TO-MORROW.

Mr. SMOOT. I move that when the Senate adjourns to-day it adjourn to meet to-morrow morning at 11 o'clock.

The motion was agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. WARREN. I wish to give notice that I shall ask the Senate to take up House bill 25069, the sundry civil appropriation bill, immediately after the routine business in the morning.

IMPEACHMENT OF ROBERT W. ARCHBALD.

Mr. CLARK of Wyoming. Mr. President, yesterday, in what seemed to be the orderly course of procedure, I introduced a resolution providing for the appointment of a special committee to which should be referred the message and resolution from the House of Representatives in regard to the impeachment proceedings. There was no debate upon the subject at the time; it went through evidently without consideration; but afterwards a difference of opinion developed in the Chamber, some thinking that a committee of that sort was entirely unnecessary and others believing that the time of appointment was inopportune. Therefore, in order that the matter may be before the Senate again, I move a reconsideration of the vote by which the resolution was carried.

Mr. SMITH of Georgia. Mr. President, Senators perhaps are not familiar with the necessity for such a committee, or yesterday did not fully realize the questions that will come up from time to time as we go on that ought to be looked after and planned and resolutions drawn. It would be a great economy of time if this committee should be left in existence. I hope the Senate will retain it.

Mr. ROOT. Mr. President, I wish to join in the hope that the committee may be allowed to stand as originally ordered by the Senate.

The PRESIDENT pro tempore. The question is on the motion to reconsider the vote by which the Senate yesterday adopted the resolution submitted by the Senator from Wyoming [Mr. CLARK].

The motion to reconsider was not agreed to.

TARIFF DUTIES ON WOOL.

Mr. SIMMONS. Mr. President, I desire to give notice that to-morrow after the routine morning business, if I can get recognition from the Chair, I shall move to take up House bill 22195, to reduce the duties on wool and manufactures of wool.

EXECUTIVE SESSION.

Mr. CULLOM. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After seven minutes spent in executive session, the doors were reopened and (at 5 o'clock and 12 minutes p. m.) the Senate adjourned until to-morrow, Wednesday, July 17, 1912, at 11 o'clock a. m.

NOMINATIONS.

*Executive nominations received by the Senate July 16, 1912.*

UNITED STATES MARSHAL.

Secundino Romero, of New Mexico, to be United States marshal for the district of New Mexico, under the provisions of section 13 of the act approved June 20, 1910. Mr. Romero's nomination is to succeed Creighton M. Foraker, resigned.

## POSTMASTERS.

## CONNECTICUT.

Henry L. Porter to be postmaster at Berlin, Conn. Office became presidential July 1, 1912.

## GEORGIA.

J. W. Adams to be postmaster at Moultrie, Ga., in place of Hugh M. Pierce. Incumbent's commission expired February 27, 1912.

C. L. Bennett to be postmaster at Eastman, Ga., in place of Henry C. Newman. Incumbent's commission expired January 30, 1911.

Young A. Williams to be postmaster at Greenville, Ga., in place of Pearl Williams, deceased.

## MISSOURI.

Jacob W. Schempp to be postmaster at Appleton City, Mo., in place of William E. Burns. Incumbent's commission expired January 13, 1912.

E. S. Wilson to be postmaster at Mexico, Mo., in place of George H. Kunkel. Incumbent's commission expired March 20, 1912.

## VIRGINIA.

D. H. Lewis to be postmaster at Chincoteague Island, Va., in place of John W. Field, deceased.

Arthur M. Stimson to be postmaster at Hot Springs, Va., in place of Arthur M. Stimson. Incumbent's commission expired June 29, 1910.

Albert L. Taylor to be postmaster at Parksley, Va. Office became presidential October 1, 1911.

## WYOMING.

Icy S. Green to be postmaster at Moorcroft, Wyo. Office became presidential July 1, 1912.

## CONFIRMATIONS.

*Executive nominations confirmed by the Senate July 16, 1912.*

## UNITED STATES DISTRICT JUDGE.

J. Whitaker Thompson to be United States district judge for the eastern district of Pennsylvania.

## MEMBERS OF THE BOARD OF CHARITIES OF THE DISTRICT OF COLUMBIA.

John Joy Edson to be a member of the Board of Charities.  
George M. Kober to be a member of the Board of Charities.

## PENSION AGENT.

Joab N. Patterson to be pension agent at Concord, N. H.

## PROMOTIONS IN THE PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

Asst. Surg. Anthony J. Lanza to be passed assistant surgeon.  
Asst. Surg. Robert Olesen to be passed assistant surgeon.

## MEMBERS OF THE EXECUTIVE COUNCIL OF PORTO RICO.

Martin Travieso, jr.  
Jose C. Barbosa.

## APPOINTMENTS, BY TRANSFER, IN THE ARMY.

## FIELD ARTILLERY.

First Lieut. Emery T. Smith to be first lieutenant.

## INFANTRY.

First Lieut. Charles T. Smart to be first lieutenant.

## APPOINTMENTS IN THE ARMY.

## GENERAL OFFICER.

Col. George F. Chase to be brigadier general.

## MEDICAL RESERVE CORPS.

*To be first lieutenants.*

Ernest Chester McCulloch.

Robert Henry Duenner.

## CORPS OF ENGINEERS.

*To be second lieutenants.*

Cadet Howard Sharp Bennion.  
Cadet Rudolph Charles Kuldell.  
Cadet Roscoe Campbell Crawford.  
Cadet Earl Grady Paules.  
Cadet Bradford Grethen Chynoweth.  
Cadet Milo Pitcher Fox.

## CAVALRY ARM.

Cadet William Henry Walmsley Youngs.  
Cadet Byron Quinby Jones.  
Cadet Robert McGowan Littlejohn.  
Cadet Harry Albert Flint.  
Cadet Pearl Lee Thomas.

Cadet Sidney Vincent Bingham.  
Cadet Otto Emil Schultz.  
Cadet Isaac Spalding.  
Cadet Henry Lytton Flynn.  
Cadet Robert Fee Hyatt.  
Cadet Harold Marvin Rayner.  
Cadet Stephen Marston Walmsley.  
Cadet John Traylor McLane.  
Cadet George McClellan Chase.  
Cadet James Sylvester Mooney.  
Cadet Henry William Harms.  
Cadet John Earl Lewis.  
Cadet John Duncan Kelly.  
Cadet Thorne Deuel, jr.  
Cadet William Nalle.  
Cadet Gustav Jacob Gonser.

## FIELD ARTILLERY ARM.

Cadet Russell Lamonte Maxwell.  
Cadet Charles Janvrin Browne.  
Cadet John Nathaniel Hauser.  
Cadet Karl Chris Greenwald.  
Cadet Richard Emmanuel Anderson.  
Cadet James Albert Gillespie.  
Cadet Wesley Moter Bailey.

## COAST ARTILLERY CORPS.

Cadet Lee Otis Wright.  
Cadet Lewis Andrews Nickerson.  
Cadet Philip Ries Faymonville.  
Cadet William Coffin Harrison.  
Cadet John Shirley Wood.  
Cadet Robert Henry Lee.  
Cadet David McLean Crawford.  
Cadet Oscar James Gatchell.  
Cadet Cris Miles Burlingame.  
Cadet Raymond Vincent Cramer.  
Cadet Sidney Parker Spalding.  
Cadet Leonard Lovering Barrett.  
Cadet Stephen Harrison MacGregor.  
Cadet James Kirk.  
Cadet Robert Nall Bodine.  
Cadet James Harve Johnson.  
Cadet John Henry Lindt.  
Cadet Bird Spencer Du Bois.  
Cadet Cyril Augustine Phelan.

## INFANTRY ARM.

Cadet Thomas Jay Hayes.  
Cadet d'Alary Fehét.  
Cadet William Hale Wilbur.  
Cadet Edgar Staley Gorrell.  
Cadet Basil Duke Edwards.  
Cadet Davenport Johnson.  
Cadet Wade Hampton Haislip.  
Cadet William Dean.  
Cadet Walter Melville Robertson.  
Cadet Harry James Malony.  
Cadet John Hartwell Hinemon, jr.  
Cadet Charles Nathaniel Sawyer.  
Cadet Gilbert Richard Cook.  
Cadet Max Weston Sullivan.  
Cadet Franklin Cummings Sibert.  
Cadet Archibald Vincent Arnold.  
Cadet John Nicholas Smith, jr.  
Cadet William Gaulbert Weaver.  
Cadet Stephen J. Chamberlin.  
Cadet William Horace Hobson.  
Cadet Walter Glenn Kilner.  
Cadet Raymond Oscar Barton.  
Cadet Houston Latimer Whiteside.  
Cadet Walton Harris Walker.  
Cadet Millard Fillmore Harmon, jr.  
Cadet Edward Chamberlin Rose.  
Cadet Albert Eger Brown.  
Cadet Ralph Cadot Holliday.  
Cadet Robert Emmett Patterson.  
Cadet Adrian Kenneth Polhemus.  
Cadet Carl Peterson Dick.  
Cadet Charles Chisholm Drake.  
Cadet George LeRoy Brown, jr.  
Cadet Earl Barlow Hochwalt.  
Cadet William Joseph Morrissey.  
Cadet Robert Theodore Snow.  
Cadet Henry Charles McLean.  
Cadet Joseph Edmund McDonald.  
Cadet Frank Victor Schneider.



Cadet Frank Joseph Riley.  
Cadet Benjamin Franklin Delamater, jr.  
Cadet Theodore Willis Martin.

## PROMOTIONS IN THE ARMY.

## CHAPLAIN.

Chaplain Herbert S. Smith to be chaplain with the rank of captain.

## MEDICAL CORPS.

*To be captains.*

First Lieut. Henry C. Coburn, jr.  
First Lieut. Arnold D. Tuttle.  
First Lieut. John B. H. Waring.  
First Lieut. William R. Dear.  
First Lieut. Charles E. Doerr.  
First Lieut. Daniel P. Card.  
First Lieut. Ralph H. Goldthwaite.  
First Lieut. Frederick S. Wright.  
First Lieut. Daniel W. Harmon.  
First Lieut. James C. Magee.  
First Lieut. Corydon G. Snow.  
First Lieut. Norman L. McDiarmid.  
First Lieut. Clarence A. Treuholtz.  
First Lieut. Eben C. Hill.  
First Lieut. George H. McLellan.  
First Lieut. Alexander D. Parce.  
First Lieut. James A. Wilson.  
First Lieut. Armin Mueller.  
First Lieut. Morrison C. Stayer.  
First Lieut. Robert W. Kerr.  
First Lieut. Lee R. Dunbar.  
First Lieut. Leon C. Garcia.  
First Lieut. William S. Shields.  
First Lieut. Addison D. Davis.  
First Lieut. William H. Smith.  
First Lieut. Clarence E. Fronk.  
First Lieut. George D. Heath, jr.

## PROMOTIONS AND APPOINTMENTS IN THE NAVY.

Commander Robert E. Coontz to be a captain.

The following-named lieutenant commanders to be commanders:

Raymond De L. Hasbrouck,  
Benjamin B. McCormick,  
Edward S. Kellogg,  
David V. H. Allen, and  
Frank H. Clark.

Lieut. Commander Walter S. Crosley, an additional number in grade, to be commander.

The following-named lieutenants to be lieutenant commanders:

William K. Riddle, and  
William N. Jeffers.

The following-named ensigns to be lieutenants (junior grade):

Richard S. Galloway,  
Samuel L. Henderson,  
Carl C. Krakow,  
Louis J. Gulliver,  
Richard B. Coffman,  
Charles S. Keller, and  
Louis C. Scheibla.

Asst. Surg. George A. Riker to be a passed assistant surgeon.

Charles A. E. King, a citizen of New York, to be a second lieutenant in the Marine Corps.

Commander Robert L. Russell to be a captain.

Herbert J. Hauser to be an assistant paymaster.

The following-named midshipmen to be ensigns:

Ralph S. Wentworth, and  
Raymond G. Payne.

The following-named lieutenant commanders to be commanders:

Edward H. Campbell, and  
Henry B. Price.

The following-named midshipmen to be ensigns:

Harold E. Saunders,  
Garland Fulton,  
Ralph S. Parr,  
Samuel J. Zeigler, jr.,  
Shirley A. Wilson,  
Charles H. McMorris,  
Ernest M. Pace, jr.,  
John A. Byers,  
Virgil C. Griffin, jr.,  
Henry M. Kieffer,  
William A. Corley,  
Benjamin Perlman,  
Howard H. Good,

Carroll B. Byrne,  
Ernest G. Small,  
Carleton H. Wright,  
Donald Boyden,  
Stanley P. Tracht,  
Robertson J. Weeks,  
Roscoe L. Martin,  
Herman E. Fischer,  
Marc W. Larimer,  
Willard E. Cheadle,  
Edward P. Nickinson,  
Thomas L. Gatch,  
Harry G. Patrick,  
James A. Saunders,  
John H. Culin,  
Alfred E. Montgomery,  
Andrew C. Bennett,  
Fred K. Elder,  
Eugene P. A. Simpson,  
Edward O. McDonnell,  
Oliver W. Bagby,  
Lawrence P. Bischoff,  
James C. Clark,  
James C. Montfort,  
Robert D. Moore,  
Carl C. Gilliland,  
Robert D. Brown,  
George L. Woodruff,  
Mahlon S. Tisdale,  
Schuyler Mills,  
Edmund A. Crenshaw,  
James L. King,  
Lawrence K. Forde,  
William D. Taylor,  
Davis De Treville,  
Homer C. Wick,  
John P. Dalton,  
Robert A. Lavender,  
Louis P. Wenzell,  
Robert S. Haggart,  
Richard E. Byrd, jr.,  
Raymond E. Kerr,  
Philip Van H. Weems,  
George H. Fort,  
Lunsford L. Hunter,  
Forrest U. Lake,  
Ray H. Wakeman,  
Robert R. Thompson,  
Elliott Buckmaster,  
Nelson W. Hibbs,  
Walter S. De Lany,  
Emory P. Eldredge,  
Albert B. Sanborn,  
Ellis M. Zacharias,  
Clarence Gulbranson,  
Wentworth H. Osgood,  
Donald F. Patterson,  
Harold B. Grow,  
Donald W. Hamilton,  
Herbert G. Gates, jr.,  
Hiester Hoogewerff,  
John H. Falge,  
Louis E. Denfeld,  
Ralph W. Holt,  
George W. D. Dashiell,  
Harold Dodd,  
Whitley Perkins,  
Warren A. Shaw,  
Robert A. Hall,  
Guy C. Hitchcock,  
Anton B. Anderson,  
William S. Hogg, jr.,  
Beriah M. Thompson,  
John L. Fox,  
Earl R. Morrissey,  
Stephen B. Robinson,  
William G. Greenman,  
Harold H. Little,  
Horatio J. Pelce,  
Hamilton Harlow,  
Hugh C. Fraser,  
James L. Abbot,  
Thales S. Boyd,  
James A. Crutchfield,  
Daniel E. Barbey,  
Raymond V. Hannon,

George W. Whiteside,  
 Charles P. Mason,  
 John J. Brown,  
 Grady B. Whitehead,  
 Carl K. Martin,  
 Campbell D. Edgar,  
 Harry P. Curley,  
 Walter S. Haas,  
 John P. Bowden,  
 Dewitt C. Ramsey,  
 Baylis F. Poe,  
 Emory W. Coll,  
 Nathan B. Chase,  
 George W. La Mountain,  
 Alexander W. Loder,  
 Harold W. Scofield,  
 Carroll M. Hall,  
 Rodes H. Hawkins,  
 Roscoe E. Schuirmann,  
 Charles K. Osborne,  
 Abraham C. Ten Eyck,  
 Ingram C. Sowell,  
 Francis E. M. Whiting,  
 Charles A. Lockwood, jr.,  
 John K. Richards, jr.,  
 William H. Burtis,  
 Stanley G. Womble,  
 Hans Ertz,  
 Paul S. Theiss,  
 Aaron S. Merrill,  
 John Wilbur,  
 Charles S. Alden,  
 Robert E. P. Elmer,  
 Charles F. Greene,  
 Hervey A. Ward,  
 George S. Gillespie,  
 Garnet Hulings,  
 Hubert V. La Bombard,  
 Charles W. McNair,  
 Edward H. McKitterick,  
 Otto M. Foster,  
 Laurence R. Brown, and  
 Lloyd H. Lewis.  
 Asst. Surg. Alfred J. Toulon to be a passed assistant surgeon.  
 Asst. Surg. Chandler W. Smith to be a passed assistant surgeon.  
 Asst. Surg. John B. Pollard to be a passed assistant surgeon.  
 Machinist Jarrard E. Jones to be a chief machinist.

## POSTMASTERS.

## ALABAMA.

Belvins S. Perdue, Greenville.

## CALIFORNIA.

H. C. Hollenbeck, Soldiers Home,  
 Samuel F. Jenkins, Richmond,  
 W. D. Pennycook, Vallejo.

## ILLINOIS.

H. B. Chaffin, Clay City,  
 David Herriott, Morgan Park.

## INDIANA.

Joseph W. Morrow, Charlestown,  
 George E. Spake, Monroeville.

## IOWA.

Lawrence J. Finn, Bonaparte.

## MARYLAND.

Samuel S. Yingling, Reisterstown.

## MICHIGAN.

Lee R. Wallace, Port Austin.

## MISSISSIPPI.

George A. McCuen, Brookville.

## NEBRASKA.

Joseph A. Storch, Fullerton,  
 John A. Wood, Ewing.

## NEW HAMPSHIRE.

Waldo C. Varney, Alton.

## NORTH DAKOTA.

John W. Doles, Stanley.

## OHIO.

Oscar O. Gale, Eaton,  
 Richard Gilson, Steubenville.

## SOUTH DAKOTA.

George W. Bowker, Ashton.  
 Fred C. Bowles, Dell Rapids.  
 Robert E. Rogers, Faith.

## TEXAS.

Thomas S. Hunter, Celina.

## WEST VIRGINIA.

Claude Shinn Randall, Shinnston.

## WITHDRAWAL.

*Executive nomination withdrawn July 16, 1912.*

## POSTMASTER.

William E. Burns to be postmaster at Appleton City, Mo.

## HOUSE OF REPRESENTATIVES.

TUESDAY, July 16, 1912.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

O Thou great Spirit, the Father of men, through whom Thou hast poured wisdom, knowledge, strength, and purity in the ages, making the world bright with Thy presence; make us one with Thee in intent and purpose, that we may apply our knowledge unto wisdom, our strength unto purity, and thus reflect in our personality the likeness of our Maker. "Beloved, now are we the sons of God, and it doth not yet appear what we shall be: but we know that, when He shall appear, we shall be like Him; for we shall see Him as He is." For thine is the kingdom and the power and the glory forever. Amen.

The Journal of the proceedings of yesterday was read and approved.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had agreed to the amendments of the House of Representatives to the bill (S. 6084) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

The message also announced that Mr. OVERMAN had been appointed a conferee on the bill (H. R. 24023) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1913, and for other purposes, in place of Mr. FOSTER, excused.

The message also announced that the Senate had passed the following order:

*Ordered,* That the Secretary notify the House of Representatives that the Senate is now organized for the trial of articles of impeachment against Robert W. Archbald, United States circuit judge, and is ready to receive the managers on the part of the House at its bar.

## COMMERCIAL STATISTICS.

Mr. MOORE of Pennsylvania. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to incorporate therein an address by Mr. Oscar L. Austin, Chief of the Bureau of Statistics, containing certain valuable and nonpartisan statistics of the Government with reference to our commercial development.

The SPEAKER. The gentleman from Pennsylvania [Mr. MOORE] asks unanimous consent to extend his remarks in the RECORD.

Mr. ROBINSON. I did not hear the gentleman's statement as to what it related to.

Mr. MOORE of Pennsylvania. I desire to incorporate as a part of my remarks an address made by the Chief of the Bureau of Statistics, bringing certain valuable and nonpartisan commercial statistics down to date.

Mr. ROBINSON. I have no objection.

Mr. FINLEY. What is the length of the matter which the gentleman desires to print?

Mr. MOORE of Pennsylvania. It will take about three pages of the CONGRESSIONAL RECORD.

The SPEAKER. Is there objection?

There was no objection.

## TRAVELERS' BAGGAGE.

Mr. PETERS, from the Committee on Ways and Means, reported the bill (H. R. 24926) to amend paragraph 709 of section 1 of the act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909, which was read a first and second time, referred to the Committee of the Whole House on



the state of the Union, and, with the accompanying report (No. 1005) ordered to be printed.

#### ARKANSAS & MEMPHIS RAILWAY BRIDGE.

The SPEAKER laid before the House the bill (H. R. 17239) to authorize the Arkansas & Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River, with a Senate amendment thereto.

The Senate amendment was read.

Mr. McKELLAR. Mr. Speaker, I move that the House concur in the Senate amendment.

Mr. MANN. Mr. Speaker, I wish the gentleman would explain the effect of the amendment and the reason for it.

Mr. McKELLAR. This is a bridge bill for a bridge across the Mississippi River at Memphis. The House passed the bill some time in March and it went to the Senate. Since that time, I have been informed, there has been a virtual agreement between the city of Memphis and the county of Crittenden, on the other side of the river, in the State of Arkansas, and the railroad company which is to build the bridge, in reference to the approaches, by which agreement the local authorities are to contribute \$50,000 for the building of the approaches to the bridge. It is practically an agreed matter between the local authorities, and I hope the House will concur in the Senate amendment.

Mr. ROBINSON. Does the bill give the public the right to use the bridge?

Mr. McKELLAR. Does the gentleman mean a free bridge?

Mr. ROBINSON. Yes.

Mr. McKELLAR. Oh, no; it is not a free bridge.

Mr. ROBINSON. In addition to contributing the \$50,000, the public is required to pay tolls?

Mr. McKELLAR. Yes; it is to be a toll bridge.

Mr. ROBINSON. What is the reason, if the public is required to contribute to the construction, that the terminal company is permitted to charge tolls?

Mr. McKELLAR. As I understand it, the railroad company desires to build a railroad bridge, and it will cost \$400,000 or \$500,000 additional to make it a general-traffic bridge. Naturally, the company does not care to build a general-traffic bridge. On the other hand, it will be of the greatest advantage to the city of Memphis and the people of Arkansas as well, especially to Crittenden County, to have a general-traffic bridge.

The railroad company is willing to build a general-traffic bridge, but it objects to building the long approach which is necessary on the Arkansas side. As a matter of fact, as the gentleman from Arkansas [Mr. ROBINSON] is probably familiar with the situation, on the Arkansas side there is a good deal of low ground, and it is over this that the fight has been for quite a while, as the gentleman from Arkansas [Mr. ROBINSON] undoubtedly has seen in the Memphis papers. The city of Memphis has agreed to bear a large portion of the \$50,000 additional expense that the local authorities are to contribute in order to get a general-traffic bridge. It is largely a question of local importance and convenience.

Mr. ROBINSON. Can the gentleman state whether the county of Crittenden has taken any official action in reference to the matter, or has the agreement been reached by parties purporting to represent the county?

Mr. McKELLAR. Senator CLARKE had a letter from the county judge of Crittenden County saying that it will be satisfactory as the best they could get. Of course, I would greatly prefer that we should have a free bridge and approaches built free; but, as a matter of fact, this seems to be the best we can do under the circumstances, and we think that a general-traffic bridge at this time will be of great benefit, both to the city of Memphis and to the other side of the river, and I am anxious that the bill should pass.

Perhaps the bridge company should pay for the approaches just as provided in the House bill; but it must be admitted that the purpose of the company was simply to build a railroad bridge, and that a railroad bridge merely will be of the greatest value to both Tennessee and Arkansas. And, of course, if we can get, in addition to the railroad bridge, a general-traffic bridge it will be of vastly more importance and benefit to us. After the House bill was passed not only requiring the railroad company to build a separate general-traffic compartment to the bridge at an additional expense of several hundred thousand dollars, but also requiring it to build the long approach on the Arkansas side, the railroad people gave notice that they would not build any bridge at all. So since that time the House bill has simply been lying in the Senate awaiting developments. Recently Mayor E. H. Crump, Mr. C. P. J. Mooney, Mr. T. K. Riddick, Mr. L. P. Berry, Judge Allen Hughes, Judge Frank Smith, Judge Thompson, Mr. Louis Barton, Mr. Lem Banks, and other public-spirited citizens of both Memphis and Crittenden

County got together with the representatives of the railroad company—Gen. Luke Wright, Mr. L. P. Miles, Mr. B. L. Mallory, and Mr. Tinsman—and agreed substantially to what is now contained in the bill as amended. All of these gentlemen deserve the greatest credit for their work, and if the bridge is built, as I believe it will be now, it will be due most largely to their splendid efforts. All the Memphis newspapers, too, have given powerful and effective aid to the project. The amendment was drawn by Senator CLARKE of Arkansas, and the Senate passed the bill with this amendment. After consulting with Senator CLARKE I am convinced that the bill can not pass the Senate in any other form and that a conference committee could do no good. I feel sure that the bill as amended will now meet the approval of both the railroad company and those who want the general-traffic bridge, as every material difference has been adjusted, and therefore I hope the House will agree to the amendment.

Mr. SIMS. Mr. Speaker, this bill was reported originally to the House from the Committee on Interstate and Foreign Commerce and was supposed to meet all the requirements of railroad traffic and highway traffic, if there might be any. There was a report by the Secretary of War that it would not interfere with navigation. The bill has not been referred back to the Committee on Interstate and Foreign Commerce, and so Members have not examined it; but it seems to be a local matter in which the people of Crittenden County are interested, and I see no reason why the Committee on Interstate and Foreign Commerce would object to agreeing to the Senate amendment if it meets with the approval of the people who will have to put up the money.

Mr. ROBINSON. Mr. Speaker, Crittenden County is not situated within the district which I represent, but I am now informed that Senator CLARKE, of the State of Arkansas, who has the bill in charge in the Senate, has agreed to the amendment.

Mr. McKELLAR. I will say to the gentleman that Senator CLARKE, from the State of Arkansas, prepared and offered the amendment which was passed in the Senate.

Mr. ROBINSON. Mr. Speaker, I have no objection whatever under those circumstances.

The SPEAKER. The question is on agreeing to the Senate amendment.

The Senate amendment was agreed to.

#### ANNA R. SCHLEY.

The SPEAKER laid before the House the bill (S. 4568) granting an increase of pension to Anna R. Schley, with a House amendment disagreed to by the Senate.

Mr. RICHARDSON. Mr. Speaker, I move that the House insist on its amendment and agree to the conference asked for by the Senate.

The motion was agreed to.

The SPEAKER announced the following conferees on the part of the House: Mr. RICHARDSON, Mr. DICKSON of Mississippi, and Mr. Wood of New Jersey.

#### COAL MINING IN WYOMING.

The SPEAKER laid before the House Senate joint resolution 100, authorizing the Secretary of the Interior to permit the continuation of coal mining operations on certain lands in Wyoming, with a House amendment disagreed to by the Senate.

Mr. ROBINSON. Mr. Speaker, I move to further insist upon the House amendment and agree to the conference asked for by the Senate.

Mr. MANN. Mr. Speaker, as I understand, this resolution as it came from the Senate provided that the Secretary of the Interior should have general authority to permit coal mining and the leasing of coal mines. The House amendment, as I recall it, restricted that to a particular case. Am I not right about that?

Mr. ROBINSON. The Interior Department suggested that the legislation should be general.

Mr. MANN. As I understand, the House agreed to the proposition to apply it to a particular case for the reason stated. I shall not object to its going to conference, and I hope there is no disposition on the part of the House conferees to extend that position and make it general.

Mr. ROBINSON. Mr. Speaker, I find on looking at the bill that my recollection is correct. The Senate declined to report a bill of a general character and confined the measure to the Owl Creek Coal Co. The House amended the Senate resolution but did not adopt the suggestion of the Interior Department.

Mr. MANN. Then I was mistaken in it.

The SPEAKER. The question is on agreeing to the conference asked for by the Senate.

The motion was agreed to.

The SPEAKER appointed the following conferees on the part of the House: Mr. ROBINSON, Mr. TAYLOR of Colorado, and Mr. MONDELL.

ALLOTTEES, FIVE CIVILIZED TRIBES, OKLAHOMA.

The SPEAKER laid before the House the bill (S. 4948) to amend an act approved May 27, 1908, entitled "An act for the removal of restrictions from part of the lands of allottees of the Five Civilized Tribes, and for other purposes," with House amendment thereto disagreed to by the Senate.

Mr. STEPHENS of Texas. Mr. Speaker, I move that the House agree to the conference asked for by the Senate.

Mr. MANN. Mr. Speaker, I wish the gentleman from Texas would tell us some of the differences.

Mr. STEPHENS of Texas. Mr. Speaker, I will state that this was a Senate bill. We had a similar House bill pending before the committee. We adopted the House bill. The bill was introduced by Mr. DAVENPORT, the gentleman from Oklahoma, and I will ask that he explain the matter.

Mr. DAVENPORT. Mr. Speaker, the bill has for its purpose the clearing up of the question down there between the Federal and State courts on the one side and the United States Attorney General's office on the other. The act of May 27, 1908, provided that where full-blood Indians inherited lands from deceased allottees the county court, the probate court of the county, having jurisdiction of the estate, should approve the conveyance made by the full blood before it should become valid. The Federal court in Oklahoma and the State court passing upon the question held that if the allottee died before May 27, 1908, and the conveyance was made subsequent to that time, the conveyance was valid, if approved by the county court. The Attorney General of the United States took a different position, and this bill is intended to correct that and clarify the matter so that the titles will be clear.

Mr. MANN. If the gentleman will permit, I remember the bill well. My understanding was the gentleman in charge of the bill at the time the change was made by the House stated it was agreeable to them and to the Senators who were interested in it. Why does it come back to the House with this disagreement to the House amendment as it was passed by unanimous consent with a change that was made and agreed to here?

Mr. STEPHENS of Texas. I can not understand, but the Senate refused to agree to the amendment and asked for a conference.

Mr. DAVENPORT. I was in the Senate at the time and Senator Smoot suggested that it go to conference and the amendment be presented there.

Mr. MANN. And for the purpose of putting in a new proposition. We understood here and had the right to understand, as so stated by the gentleman, that if the House agreed to the form it was in the Senate was going to agree to it.

Mr. DAVENPORT. I will say to the gentleman I was not on the floor of the House at the time the bill passed and I do not know what the understanding was at the time, but I do know that the amendment offered is an amendment to conform in substance to the act of May 27, 1908, and it ought to be carried in the bill because there should be some authority to approve the conveyances. As it stands it does not require anybody to approve the conveyances and there should be a provision in the bill requiring some court to approve the conveyances before they become valid.

The SPEAKER. The gentleman from Texas moves that the House insist on its amendment and agree to the conference asked for by the Senate.

The question was taken, and the motion was agreed to.

The SPEAKER. The Clerk will report the conferees.

The Clerk read as follows:

Mr. STEPHENS of Texas, Mr. GUDGER, and Mr. BURKE of South Dakota.

SALE OF FUTURES IN COTTON.

The SPEAKER. The unfinished business is the bill (H. R. 56) which is being considered under the five-minute rule. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 56) to prohibit interference with commerce among the States and Territories and with foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States and Territories and foreign nations.

Be it enacted, etc., That certain words used in this act and in proceedings pursuant hereto shall, unless the same be inconsistent with the context, be construed as follows: The word "message" shall mean any communication by telegraph, telephone, wireless telegraph, cable, or other means of communication from one State or Territory of the United States or the District of Columbia to any other State or Territory of the United States or the District of Columbia or to any foreign country. The word "person" shall mean any person, partnership, joint stock company, society, association, or corporation, their man-

agers and officers, and when used with reference to the commission of acts which are herein required or forbidden shall include persons who are participants in the required or forbidden acts, and the agents, officers, and members of the boards of directors and trustees, or other similar controlling or directing bodies of partnerships, joint stock companies, societies, associations, and corporations. And words importing the plural number, wherever used, may be applied to or mean only a single person or thing, and words importing the singular number may be applied to or mean several persons or things.

Mr. DUPRÉ. Mr. Speaker, I move to strike out the last word. This is another of the nostrums that legislative quack doctors in and out of this Chamber are seeking to administer to the people from time to time. It is heralded here as a great boon and benefaction to the cotton grower of the South. I venture to predict if by any mischance it should become a law it will prove a worse blow to the cotton industry than even the boll weevil which has devastated our country. One of the cotton exchanges which is sought to be destroyed by this bill is located in my home city. I say the New Orleans Cotton Exchange has been the best friend that the southern farmer has had, and if you destroy it by this bill you make of King Cotton the vassal of Liverpool. That institution, Mr. Speaker, is an honestly conducted institution. It is a legitimate institution. Its methods have been scrutinized by Government authorities and its contracts and general operations have been approved by the present Commissioner of Corporations, Herbert Knox Smith, and I submit to attempt to destroy it by this legislation is a serious mistake. We are told that we should support this bill in the interest of morality and because of a party platform. Well, under the circumstances, with pseudo morality and blanket party platforms on the one side and the Constitution of the United States on the other I choose to take my stand with the Constitution. This bill is distinctly in the teeth of the Constitution. Any man who has read the case of Leland and Ware in Two hundred and ninth United States, decided less than five years ago, must come to the conclusion that it is violative of the fundamental law.

The object of the legislation is pernicious, the bill itself is unconstitutional, and I shall certainly vote against it. And in this connection I ask to read the following excerpt from a telegram received to-day by me:

The cotton producers have had enough adversity to contend with without being assassinated at the hands of their alleged political friends. I want the farmers—the ones who make the cotton, not the ones who make the speeches—to be fully advised of the economic significance of this legislation in order that they may fix responsibility should calamity unhappily befall.

Mr. BURLESON. Whom is the telegram from?

Mr. DUPRÉ. It is from W. B. Thompson, with whom you are well acquainted.

Mr. BEALL of Texas. Of the New Orleans Cotton Exchange?

Mr. DUPRÉ. Formerly president of the New Orleans Cotton Exchange; yes.

I herewith insert the telegram of Mr. Thompson, to which I have referred heretofore in part. The telegram is as follows:

Hon. H. GARLAND DUPRÉ,  
Washington, D. C.:

The Beall anticotton futures bill, if enacted, will strike southern prosperity the severest blow it has sustained in many years. It is admitted that some regulation of future trading is needed, but the bill in question is drastic and destructive. To informed or open minds it has been demonstrated that the proposed legislation would prevent American merchants from hedging their spot purchases and sales, and would destroy the American contract exchanges. The inevitable results of such conclusion would be, first, to deprive the cotton producer of the multitude of small competitive markets and buyers which now purchase crop, and in consequence summarily lower the price of cotton; and, secondly, to place the price-making power unreservedly in the hands of a combination of foreign buyers and spinners, who would unquestionably fix it low. I have no interest in the matter except as a citizen of the cotton-producing country who wants to see the commodity bring the highest legitimate price. I have made an earnest study of this question, and I can, with some claim to authority and with the support of absolute conviction, warn the advocates of this bill that if they make it a law they will legislate directly against the price of cotton, and consequently against the welfare of the South. The cotton producers have had enough adversity to contend with without being assassinated by the hands of their alleged political friends. I want the farmers—the ones who make the cotton, not the ones who make the speeches—to be fully advised of the economic significance of this legislation in order that they may fix responsibility should calamity unhappily befall.

W. B. THOMPSON.

The SPEAKER. The gentleman from Alabama [Mr. HEFLIN] is recognized for five minutes.

Mr. HEFLIN. Mr. Speaker, I have listened with interest, as I always do, to my friend the able Member from Louisiana [Mr. DUPRÉ]. I do not agree with what he has said. The exchange may be good for some of his constituents—those who operate it. The cotton exchanges as operated to-day are very injurious to the cotton producers that I represent, injurious to every cotton producer in the United States.

This bill is in the interest of fair play. It is for the purpose of requiring cotton exchanges to perform their rightful



and legitimate functions in the cotton world. What is the purpose of the cotton exchange, or should be the function of the exchange? It should benefit the producer of cotton. It should help to sell and distribute the cotton crop. Does it do that now? No. Mr. Speaker, as conducted to-day it utterly fails to do that. It deals in a fictitious stuff called cotton, and sells that stuff in unlimited quantities and real cotton is injured by these sales, because real cotton is not required to settle the contracts. They use the word "cotton" in their contracts, but they do not deliver cotton on their contracts. They have no cotton. They do not want any cotton, for it does not require cotton to do the kind of business that they do.

Mr. Speaker, I characterized once before this dealing in cotton as a "dummy performance." A gentleman illustrated to me what he meant by a "dummy saloon." He said, "They sell whisky on Sunday, but in order to sell a drink of whisky they must serve a sandwich with each drink, a sandwich composed of two slices of bread with one piece of red meat in the middle. The bartender discovered that instead of having to go to the baker and butcher for bread and meat he could have some wooden sandwiches painted like brown bread with a red slice painted like meat in the middle; and on Sunday he would put the sandwich on the table when a man would order a drink. In this way these wooden sandwiches were served over and over to thousands of men."

That is the way they do on the cotton exchange. They keep the same old dog-tail cotton and serve it with contracts on which they expect a settlement in money and not in cotton. The man who bought the dummy cotton contract on the exchange did not want the stuff sold him any more than the fellow who bought the whisky wanted the dummy sandwich. They put this exchange cotton back and serve it to you, and to you, and thousands of others. They settle the difference in dollars and dimes. No cotton is demanded, and the farmer is outraged and outlawed by this awful practice. The Scripture tells us that if you sow the wind you will reap the whirlwind. I wish to say that the cotton exchange sells the wind and the cotton farmer reaps the whirlwind. [Applause.] Mr. Speaker, this open and notorious gambling in cotton is the greatest evil that the cotton producers have to contend with. [Applause.]

Mr. DICKSON of Mississippi. Mr. Speaker, I shall support this bill for more reasons than one. I have some acquaintance with the cotton business. I have been all my life a cotton producer. I have been a compress man. I have partly owned, I presume, one of the largest ginneries east of the Mississippi River. I have bought and sold cotton for domestic and foreign accounts, and, also, I have climbed that tree of knowledge which so many have climbed, and I have done some apple eating long ago.

If there is any good in those unbridled institutions—the so-called exchanges and bucket shops—it remains for me to discover it. I have before me some figures here that are somewhat astounding. I find that the city of New Orleans some few years ago—the nearest I could get, because as you know, they no longer publish daily the number of bales sold, either spot or future—received 2,296,971 bales of cotton. At the end of the season it had left only 31,964 bales. The city or port of Galveston received 3,891,695 bales and had 30,820 on hand at the close of the season; the city of Savannah 1,668,633 bales, and it had left only 8,593 bales.

It remains for me to recite a problem for mathematical calculation that I would like to have solved by some Member of this House. The same year the port of New York received 23,108 bales. It sold 90,000,000, and at the end of the season it had left over 169,975 bales—receiving 23,298 and having left over 169,975 bales.

There is no planter, no farmer, who objects to any institution—not a so-called exchange, but one of legitimate purpose and action—for the exchange of cotton. It is for that purpose that they are presumably in existence. If I have a thousand bales and you have the money, you being a spinner and I being a producer, it is perfectly legitimate for you by wire or any other means (which this bill does not prevent) to negotiate a transaction through a broker or in any other way to accomplish the end desired.

But how is it with the usual practice—of some of these institutions, at least? There is no intent or purpose attached to the supposed negotiation when made. As long as Mr. Jones could stand up and say, "I buy," and Mr. Brown could muster his forces and say, "I sell," there stood the producer and the manufacturer confounded in mind, confused, knowing not what the result might be, knowing that in some cotton exchanges, and especially the latter one referred to a moment ago, the transactions carried on were in no sense bona fide, but represented only that instinct of gambling which so largely prevails in the human race. I say "gambling" with no invidious

reference to anyone who, consciously or unconsciously, is doing this great injustice to the people who raise this great staple, but, nevertheless, my friends, it is nothing but gambling.

In some of the institutions mentioned the vast volume of cotton received and the small amounts remaining at the close of the season but indicate the sincerity that prevails; and the millions of bales by them or through them as a medium disposed of lend to a great degree the sentiment of approval in the transactions which are consummated through them as a means of bringing the consumer and the producer together for the exchange of cotton and not wind. [Applause.]

It was once said by a distinguished friend of mine in my native county that you could not spin wind. There are men on the cotton exchange to-day, I doubt not, who have never seen one bale of cotton unless it was some first bales shipped from somewhere—a premium bale, the first gathered for the season—who would not know a package of that staple if they met it in the road. Yet these meet around the ring in this exchange, and one says, "I bet that such and such a month will bear a middling price of so much." The other accepts the challenge and bets that it will not be worth that much. That is called one selling and one buying. Upon this is predicated largely, in the cotton world, the price of that great staple for that day.

Thus these speculators by themselves are dominated by a sole opinion obedient to the gambling instinct which in them lies, and whichever can marshal the strongest force of aiders and abettors dominates the market in put and call regardless of the existence of the material substance itself. During these transactions not one fiber more or less is brought into existence or is destroyed in earth, yet we see as a result the property which belongs to others emasculated in price and the hardships resultant from these transactions brought to the homes, the firesides, the schools of this land which educate and erect the standards of civilization in the youth of the land, and poverty and woe is the heritage of him who in the sweat of his brow produced these commodities and he must bend beneath the burden which the heartlessness of these transactions heaps upon his shoulders, requiring him, Atlaslike, to bear the onus of America's commercial world to a great extent.

I am likewise in sympathy with our brethren North and West engaged in the grain business, who are made the victims of avarice and are held beneath the heels of those whose greed for gain and gold admits no conscience into the temple of their souls nor sympathy for those who toil that they may reap. I shall vote with my brethren of the West when their bill, identical with the one which is pending, bearing the name of my friend BEALL of Texas, is presented, and with voice and influence will, to the extent of my ability, promote the accomplishment of all that their measure demands and needs.

To give an illustration of the unsettled and unsettling conditions attaching to these fictitious market values by gambling made, I recall in 1894 or 1895, in the month of January or February, July cotton about the ring sold and fluctuated from 17.55, then 13.02—\$20 a bale in a single month. But when July came cotton sold at 10.18, a difference of \$37.50 a bale. Yet the hand and wand of no magician had snatched from existence one single bale nor with a magic of mystery had taken from existence and being one fiber of cotton. In the six or seven months' speculation they had taken from him who toils and exchanged the locus of the value thereof to the pocket of him who, in Scriptural language, "toils not, neither does he spin."

This commodity did not belong to them—neither to him who sold nor to him who bought. It belonged to him who produced it and on which he predicated his hopes for physical existence, for the education and maintenance of family and fireside. Can there be justification therefor? I think not.

Thus this cotton, this dog-tail, this spook cotton, raised on Kirk Alloway farm, stands ever as a menace to the true merit of that staple which alike shelters the bodies of mankind and adorns the human race.

When our friend says on the exchange to the other, "I will sell," and the other says, "I will buy," what substance is there to put up, either to be bought or sold? It is a barter of opinion, pure and simple. It is a bet against time and tide, wind and weather, by those who, like the child of fortune, homeless and wandering, floating upon the face of circumstance, aimlessly drifts on the sea of luck. The world is no gainer, whichever wins; the world receives no increment of value as the result of the transaction with him who has lost.

But, on the other hand, the spinner, by a large majority, objects to this modus operandi; there is no basis for his calculations. He knows not to-day what to-morrow will bring forth, though the quantity of cotton in existence may be approximately certainly known. The farmer knows equally as little and consequently is the sufferer, for in the hazard and risk of these processes of gambling the spinner buys with a margin to secure

the risk of a probable loss, and the farmer stands that subtraction from the sum of his efforts through that year.

If these fictitious transactions did not exist and the media for their promotion included not the assistance of the great mail and other facilities for the transmission of information and the abolition by force of law of all transactions that carried not with them the intent to fulfill, the spinner would receive that which he needs to spin and weave—not money—and the farmer would transfer for a legitimate price, placed upon the basis of supply and demand, and receive recompense for his labor without sustaining the speculative world in fiction and fancy as he leans upon his hoe, which, phantom like, follows him from furrow to home, guards him through the night with haunt and dread that poverty result, and from the transactions about these rings of delusion will drive his progeny from school, the sheriff to his door, and himself to an earlier grave.

I have no objection to a legitimate exchange where cotton can be exchanged from producer to consumer. I would not thwart one transaction or effort upon the part of these institutions where honesty of intent and purpose lie behind every transaction, for it is not necessary in the legitimate exchange of commodities between men that either must suffer. Frequently it is beneficial, and oftener than not in the transactions of trade both parties thereto are beneficiaries. He who has the command of the commodity indeed needs the consumer's money. The consumer has the money, but needs the cotton, the wheat, the grain, the rye, and getting it his mills roll on, his business flourishes; he has profited, as has the man "who leans upon the hoe" and gazes upon the ground.

In a hearing before the Agricultural Committee a few years ago, and I quote this from some remarks submitted by Judge SIMS of Tennessee, in whose good judgment I have great confidence, and whose integrity all men recognize, in a colloquy with Mr. MacColl, then the president of the New England Spinners' Association, asked the following question:

Mr. SIMS. I would like to have you define what you mean by the term "speculation."

Mr. MACCOLL. I think that it is very well understood that there is a large number of people connected with the speculation in cotton, raising and depressing the price.

Mr. SIMS. Professional operators?

Mr. MACCOLL. Yes.

Then again, he says:

Mr. MACCOLL. My opinion is that the spinners of this country have used the future market to a very small extent. Lately they have been forced to use it more, but they have not used it to any large extent in years gone by.

Further, and I call strictly your attention to this:

Mr. MACCOLL. There are thousands and thousands of manufacturers who have never bought a bale of futures.

Mr. SIMS. Is it not a fact that the speculators are divided into bulls and bears and that the effect of their operations is nil?

Mr. MACCOLL. If there is no evil in it, it is not worth while for us to waste time about it. We think it has been a tremendous evil in the last three or four years.

Thus, Mr. Speaker, with the president of the great association of spinners of America, with the great mass of thousands multiplied of producers of cotton opposing the fiction in the trade, opposing gambling in the fleecy products of the fields of the South, what else is left for us to do? With only those about the cities, adorned by the towering palaces of America's wealthier classes, clamoring for the continued existence of these life-stealing and heart-breaking institutions in nefarious business engaged, I say there is not contained here anything which in good conscience would prevent my casting my ballot in favor of this measure.

This bill seeks to destroy no cotton exchange, it seeks to interfere with no legitimate transaction where the integrity of intent and purpose are unquestionable for the delivery of the commodity bought and the commodity sold, but it aims to strike down that burden which tends to destroy the value of the world's greatest fiber product. Sixty-six and four-tenths per cent of the cotton of the world is raised in America. The balance is scattered in almost all civilized lands. British India, with the assistance of the imperial treasury of England, raises only 14.9 per cent of the remainder. Egypt, under the domination of Great Britain, produces 6.5. Russia, stretching from Persia to the Arctic, from the city of St. Peter to the Peaceful Sea, produces only 3.1; Brazil, 2.2; and all other lands 2.6 per cent. And yet we, holding a monopoly by reason of conditions climatic, latitudinal, and the peculiar consistency of our soils, propose to permit the destruction of the value of this great commodity, whose tiny fiber binds in indissoluble union the commerce of this country with that of all nations of earth, and the value of which, whatever it may be proclaimed, is written in every language the globe about expressive of value.

Therefore I, for one, Mr. Chairman, am opposed to my Government, directly or by indirection, affording any aid or

comfort to those who would strike it down by act of law or the deed of the lawless, and I am opposed to seeing any function of our Government being made a medium of aid and comfort to those who destroy the intrinsic value of that commodity to express the worth of which I could name the entire budget of the Nation almost and write it in letters that would be expressive of a billion dollars. [Applause.]

Mr. RUBEY. Mr. Speaker, I move that all debate on this paragraph close in five minutes.

Mr. FOSTER. Make it close now.

Mr. RUBEY. Then, Mr. Speaker, I will move that the debate on this paragraph close now.

Mr. MANN. Mr. Speaker, I would like to speak to a proposition in this paragraph.

Mr. RUBEY. I will make it five minutes.

The SPEAKER. The gentleman from Missouri [Mr. RUBEY] moves that all debate on this paragraph close in five minutes.

The motion was agreed to.

Mr. MANN. The definition provided in the first section of the bill for the word "message," that it shall mean any communication by telegraph, telephone, wireless telegraph, cable, or other means of communication, covers a very wide latitude, and certainly it would cover the mail. Section 3 of the bill provides:

That it shall be the duty of any person sending any message relating to a contract or to the making of a contract for future delivery of cotton to furnish to the person transmitting such message an affidavit that he is the owner of such cotton, and that he has the intention to deliver such cotton.

Under these two provisions of the bill, if a man wants to write a letter proposing to deliver cotton to an actual purchaser in the future, he must file an affidavit with the clerk of the post office, or some one connected with the post office, before the letter can be transmitted.

If he wants to talk across the State line by word of mouth he must furnish an affidavit to the person that he is talking with. How could absurdity run wilder than that? Every provision in the bill is of a similar character. If this bill should ever become a law, regardless of the merits of the proposition, under the form of the bill what it will accomplish will be to prevent legitimate business, while it will still permit to a large extent the real gambling.

I have had this bill analyzed by one of the ablest men in the country connected with exchanges.

Mr. FOWLER. What is his name?

Mr. MANN. And I say upon my own responsibility, after a careful consideration of the bill, that the bill as drawn, in my judgment, will inure rather to the detriment of legitimate business than to the destruction of the gambling business which the gentlemen desire to see.

The SPEAKER. The gentleman from Louisiana withdraws his pro forma amendment, and the Clerk will read.

The Clerk read as follows:

Sec. 2. That it shall be unlawful for any person to send or cause to be sent any message offering to make or enter into a contract for the purchase or sale for future delivery of cotton without intending that such cotton shall be actually delivered or received, or offering to make or enter into a contract whereby any party thereto, or any party for whom or in whose behalf such contract is made, acquires the right or privilege to demand in the future the acceptance or delivery of cotton without being thereby obligated to accept or to deliver such cotton; and the transmission of any message relating to any such transaction is hereby declared to be an interference with commerce among the States and Territories and with foreign nations. Any person who shall be guilty of violating this section shall, upon conviction thereof, be fined in any sum not more than \$1,000 nor less than \$100, or shall be imprisoned for not more than six months nor less than one month, or by both such fine and imprisonment, and the sending or causing to be sent of each such message shall constitute a separate offense.

Mr. RUBEY. Mr. Speaker, I desire to offer the following amendment.

The Clerk read as follows:

Amend by striking out all of section 2 and inserting in lieu thereof the following—

Mr. FOSTER. Mr. Speaker, the gentleman from Missouri is offering a substitute for this section, and I desire to offer an amendment to the text.

The SPEAKER. Let the substitute be reported, so that we may know what it is.

The Clerk proceeded with the reading of the amendment as follows:

Sec. 2. That it shall be unlawful for any person to send or cause to be sent any message offering to make or enter into a contract for the purchase or sale for future delivery of cotton, grain, or other farm product without intending that such cotton, grain, or other farm product shall be actually delivered or received, or offering to make or enter into a contract whereby any party thereto or any party for whom or in whose behalf such contract is made or acquires the right or privilege to demand in the future the acceptance or delivery of cotton, grain, or other farm product without specifying the grade to be delivered, and being thereby obligated to accept or to deliver such cotton, grain, or other farm product of the grades and quantities specified in said contract, and a settlement of a contract by the payment of a margin shall



constitute prima facie evidence of a violation of this section; and the transmission of any message relating to any such transaction is hereby declared to be an unlawful interference with commerce among the States, Territories, insular possessions, District of Columbia, and with foreign nations. Any person who shall be guilty of violating this section shall, upon conviction thereof, be fined in any sum not more than \$1,000 nor less than \$100, or shall be imprisoned for not more than six months nor less than one month, or by both such fine and imprisonment; and the sending or causing to be sent of such message shall constitute a separate offense.

Mr. MANN. Mr. Speaker, I make a point of order against the amendment offered by the gentleman from Missouri.

The SPEAKER. Does the gentleman from Illinois wish to argue his point of order before the gentleman from Illinois [Mr. FOSTER] offers his amendment?

Mr. MANN. I am willing to argue it any time so that I do not lose my right.

The SPEAKER. The gentleman will not lose his right. The Chair would rather have the whole thing before him at once.

Mr. MANN. If the point of order is made against the substitute it is not possible to offer any other amendment until the point of order is disposed of.

The SPEAKER. The gentleman will state his point of order.

Mr. MANN. My point of order is that the amendment is not germane to section 2 of the bill and is not germane to the bill itself. The present rule is that an amendment must be germane to the bill.

The SPEAKER. From what is the gentleman reading?

Mr. MANN. I am going to read first from Jefferson's Manual, page 240 of the House Manual. Jefferson's Manual says:

Amendments may be made so as totally to alter the nature of the proposition; and it is a way of getting rid of a proposition by making it bear a sense different from what it was intended by the movers, so that they vote against it themselves.

That was the old rule. Paragraph 7 of Rule XVI, page 384 of the manual, says:

And no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

The provision of the bill is, first, the title relates to commerce. The bill all through relates to the transmission of messages relating to cotton. Section 2 of the bill specifically provides that it shall be unlawful for any person to send or cause to be sent any message offering to make or enter into a contract for the purchase or sale of future delivery of cotton without intent that such cotton shall be actually delivered or received.

The amendment by way of a substitute offered by the gentleman from Missouri [Mr. RUBEY] proposes to make the section read "cotton, grain, or other agricultural products," and the question is, Where the bill describes a particular thing, whether it is germane to add to that a general class of objects? There are many precedents on the subject. Page 385 of the Manual says:

In determining whether or not an amendment be germane, certain principles are established.

(a) One individual proposition may not be amended by another individual proposition even though the two belong to the same class. Thus, the following are not germane: To a bill proposing the admission of one Territory into the Union, an amendment for admission of another Territory (V. 5529); to a bill for the relief of one individual an amendment proposing similar relief for another (V. 5826-5829); to a resolution providing a special order for one bill, an amendment to include another bill (V. 5834-5836); to a provision for extermination of the cotton-boll weevil, an amendment including the gypsy moth (V. 5832); to a provision for a clerk for one committee, an amendment for a clerk to another committee (V. 5833).

(b) A specific subject may not be amended by a provision general in nature, even when of the class of the specific subject (V. 5843-5846). Thus, the following are not germane: To a bill for the admission of one Territory into the Union, an amendment providing for the admission of several other Territories (V. 5837); to a bill relating to all corporations engaged in interstate commerce, an amendment relating to all corporations (V. 5842); to a bill modifying an existing law as to one specific particular, an amendment relating to the terms of the law rather than those of the bill (V. 5806-5808).

(c) A general subject may be amended by specific propositions of the same class. Thus, the following have been held to be germane: To a bill admitting several Territories into the Union, an amendment adding another Territory (V. 5838); to a bill providing for the construction of buildings in each of two cities, an amendment providing for similar buildings in several other cities (V. 5840); to a resolution embodying two distinct phases of international relationship, an amendment embodying a third (V. 5839). But to a resolution authorizing a class of employees in the service of the House, an amendment providing for the employment of a specified individual was held not to be germane (V. 5848-5849).

(d) Two subjects are not necessarily germane because they are related. Thus, the following have been held not to be germane: To a proposition relating to the terms of Senators, an amendment changing the manner of their election (V. 5882); to a bill relating to commerce between the States, an amendment relating to commerce within the several States (V. 5841); to a proposition to relieve destitute citizens of the United States in Cuba, a proposition declaring a state of war in Cuba and proclaiming neutrality (V. 5897); to a proposition for the appointment of a select committee to investigate a certain subject, an amendment proposing an inquiry of the Executive on that subject (V. 5891); to a bill granting a right of way to a railroad, an amendment providing for the purchase of the railroad by the Government (V. 5887); to a provision for the erection of a building for a mint, an amendment to change the coinage laws (V. 5884).

There are various propositions stated in the Manual. If this were a bill in reference to cotton, wheat, corn, and oats, it would be admissible as germane to offer an amendment including some other object; because where you provide for a general class or a variety of classes you may add one more, but this bill is directed singly and solely to the subject of cotton, and being directed singly and solely to that one subject, an amendment proposing one other subject is not germane under the rules, and an amendment proposing a class of other subjects is not germane under the rules, as I have cited the precedents.

The amendment offered by the gentleman from Missouri proposes to add one other class and then proposes to add a general variety of classes, making it inimical to the rulings in both particulars.

Mr. FITZGERALD. Mr. Speaker—

The SPEAKER. On which side of the question is the gentleman from New York?

Mr. FITZGERALD. I am on the other side. I wish to speak in behalf of this amendment being in order under the rule.

Mr. MANN. I will reserve my point of order if anybody desires me to.

Mr. FITZGERALD. I wish to discuss the point of order.

Mr. MANN. The gentleman can do both, as far as I am concerned.

Mr. FITZGERALD. I contend that the amendment offered by the gentleman from Missouri is in order under the rule.

The gentleman from Illinois has referred to a number of decisions which I do not question, but which do not apply to the particular case now before the House. Many of them refer to amendments which were offered to paragraphs in appropriation bills, when it was held that as to a particular paragraph in an appropriation bill specifically restricted to a certain matter, an amendment to broaden the scope of that paragraph was not in order.

This is a bill "to prohibit interference with commerce among the States and Territories and among foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States, Territories, and foreign nations." That defines the purpose of this bill, to prohibit interference with commerce among the States by prohibiting the transmission of certain classes of messages; and the classes of messages to be prohibited are the messages that will, under the terms of the bill, interfere with commerce among the States.

In considering and determining whether an amendment be in order to a bill of this character, the primary purpose of the bill must be taken into account. What is the purpose of this bill? It is to prohibit interference with commerce among the States and Territories by prohibiting certain classes of messages. Authority exists for the proposition that I assert, that that being the primary purpose of this bill amendments to carry out that purpose are germane to the bill and in order. I have an authority that is as clear and as applicable to this bill as it is possible to be. I refer to section 5909, page 483, Volume V, Hinds' Precedents:

5909. To a bill providing for an interoceanic canal, specifying a certain route, an amendment providing for another route was held to be germane. On January 9, 1902, the Committee of the Whole House on the state of the Union was considering the bill (H. R. 3110) to provide for the construction of a canal connecting the waters of the Atlantic and Pacific Oceans when Mr. Richard W. Parker, of New Jersey, proposed an amendment providing for a canal across the Isthmus of Panama.

Mr. OSCAR W. UNDERWOOD, of Alabama, made the point of order that the amendment was not germane, because, while the bill provided for a canal at Nicaragua only, the amendment provided also for a canal at another place. After debate, the Chairman said:

"The subject matter of this bill—the enterprise upon which the House has entered—is, in the language of the bill—

"To construct a canal to connect the waters of the Atlantic and Pacific Oceans."

"The Chair is of the opinion that that is the purpose of the legislation sought; that the question of location is wholly a subordinate one; and that it is perfectly competent for Congress to reject one location and to adopt another. For instance, suppose it was a question of the building of a house for the purpose of storing the records of the Government, and a bill was introduced to locate it on a certain square in this city. Can anybody doubt that the proposition might be amended so as to locate it upon another square?"

The subject matter of the pending bill is to prohibit interference with interstate commerce, and the House has the right to reject one class of messages prohibited and to prescribe another, or to add to or subtract from the class of messages recommended by the committee. In the language of the decision the purpose of the bill is to prohibit interference with commerce, and the character of the messages sent is wholly subordinate. It is more effectively to prevent the interference with interstate commerce than is set out in the bill that the amendment of the gentleman from Missouri is offered.

I desire to call attention to another decision. I refer to section 5919, page 487, Volume V, Hinds' Precedents:

5919. An amendment on the subject of renovated butter was held to be germane to a bill relating to "oleomargarine and other imitation dairy products." On February 11, 1902, the Committee of the Whole House on the state of the Union were considering the bill (H. R. 9208) to make oleomargarine and other imitation dairy products subject to the laws of the State or Territory into which they are transported and to change the tax on oleomargarine, when Mr. Henry D. Allen, of Kentucky, proposed the following amendment:

"SEC. 4. That the Secretary of Agriculture is hereby authorized and required to cause a rigid sanitary inspection to be made from time to time and at such times as he may deem necessary, of all factories and storehouses where butter is renovated; and all butter renovated at such places shall be carefully inspected in the same manner and to the same extent and purpose that meat products are now inspected. The quantity and quality of butter renovated shall be reported monthly. All renovated butter shall be designated as such by marks, brands, and labels, and the words "renovated butter" shall be printed on all packages thereof, in such manner as may be prescribed by the Secretary of Agriculture, and shall be sold only as renovated butter. Any person violating the provisions of this section shall, on conviction thereof, be deemed guilty of a misdemeanor, and shall be fined not less than \$50 nor more than \$500 and imprisoned not less than one month nor more than six months.

"The Secretary of Agriculture shall make all needful sanitary and other rules and regulations for carrying this section into effect, and no renovated butter shall be shipped or transported from one State to another or to foreign countries unless inspected as provided in this section."

Mr. James A. Tawney, of Minnesota, made a point of order that the amendment was not germane.

After debate, the Chairman said:

"The Chair is of the opinion that it is germane, although it is questionable as to whether the jurisdiction is obtained over the proposition without any taxation being connected with it. But the question being one of imitation butter, the Chair is of opinion that this section is germane."

The SPEAKER. The Chair would ask the gentleman from New York a question respecting the decision rendered by Judge Lacey, of Iowa, to which the gentleman from New York has just referred. Was not the reason he came to make that ruling that the bill purported to treat of oleomargarine and other imitations of butter products, and under that phraseology "other imitations of butter products" did he not render that decision respecting renovated butter?

Mr. FITZGERALD. Well, I am not sufficient of a farmer to know exactly, but I believe I understand that renovated butter is not exactly an imitation but a product.

Mr. ROBINSON. The gentleman limits his farming operations to cotton.

The SPEAKER. The Chair would ask the gentleman from New York whether or not Mr. Chairman Lacey did not make renovated butter germane because the language of the bill itself says "oleomargarine and other imitations."

Mr. FITZGERALD. I think he was following the authority to which I have called attention, where the bill proposed to construct a canal to connect the Atlantic and Pacific Oceans, which was before the House.

The SPEAKER. The Chair will ask the gentleman from New York as to that. What was the subject matter of that decision which Gen. Grosvenor rendered? Was it in regard to building the canal from the Atlantic to the Pacific or the place where it was to be built?

Mr. FITZGERALD. Well, he held, as I have called the attention of the Chair to the fact, that the primary purpose was building a canal to connect the two oceans, and that the location was subordinate. The primary purpose of this bill is to prohibit the interference with interstate commerce and—

The SPEAKER. The Chair would like to ask the gentleman a question right there. Is not the title of this bill itself contradictory and misleading?

Mr. FITZGERALD. No; I am about to call the attention of the Chair to another important fact. The bill before the House is H. R. 56. Now, I call the attention of the Chair to the bill H. R. 18323, the title of which is "a bill to prohibit"—and if the Speaker will read the title of the bill he has in hand he will find that there is absolutely no difference—

A bill to prohibit interference with commerce among the States and Territories and with foreign nations and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States and Territories and foreign nations.

The title is identical with the title of the bill which the Speaker has in his hand and which is pending in the House, and the purpose of that bill—18323—is to prohibit interference with commerce among the States and Territories, and the subordinate purpose, as set forth in the bill, is to prevent messages being sent which affect certain contracts for the purchase or sale for future delivery of wheat, corn, or oats. It is clear, the two bills coming from the one committee, that the primary purpose of both bills is to prohibit or prevent interference with commerce between the States, and that the commodities affected are subordinate to the primary purpose of the bill, or rather, the two

bills considered by the same committee and reported from the same committee purporting to accomplish the same purpose.

Mr. CANNON. Will the gentleman allow me?

Mr. FITZGERALD. I will yield to the gentleman.

Mr. CANNON. Which bill is under consideration at this time?

Mr. FITZGERALD. House bill 56.

Mr. CANNON. Is that the one about cotton?

Mr. FITZGERALD. Yes.

Mr. CANNON. Then there is one on the calendar, or before the committee, about corn, wheat, and oats?

Mr. FITZGERALD. Yes.

Mr. MANN. Will the gentleman yield?

Mr. FITZGERALD. And the purpose of the two bills is identical, and so identical that the committee could not find a single word of difference in which to express the purpose of the bill as set forth in the title. If corn, wheat, and oats are germane in one bill, when that is the title, how is it possible that they are not germane to another bill of the same title, the purpose being to prohibit or prevent interference with commerce between the States?

Mr. LONGWORTH. I would like to call the attention of the gentleman to the statement of the committee itself—

Mr. FITZGERALD. That has nothing to do with it. The Chair has never been able to bolster up an unjustifiable decision by resorting to the plea of the special counsel reporting a bill. Even a court would not base its decision upon any such arguments.

Mr. FOSTER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FOSTER. Does this debate come out of the time allotted under the five-minute rule?

The SPEAKER. It does not.

Mr. RUCKER of Colorado. That was the question I was going to propound.

The SPEAKER. Suppose the question of order took up the whole hour?

Mr. MANN. The amendment in order would still be voted upon.

The SPEAKER. The Chair thinks not. He thinks it has never been so held. This is a question of order which might in its possibilities take four hours.

A MEMBER. Or four days.

Mr. FITZGERALD. I am not speaking for my entertainment, but I have some views which I wished to submit to the Chair.

The SPEAKER. The Chair would like to ask the gentleman from New York a question.

Mr. FITZGERALD. If the Chair indicates any desire that I should stop I will do so.

The SPEAKER. The title of this bill purports that it is to prohibit interference with commerce among the States, and so forth. Now, as a matter of fact, does not the text of the bill prohibit commerce? Is not the text of the bill right in the teeth of the title of the bill?

Mr. FITZGERALD. Not at all. The theory of this bill is that certain so-called gambling transactions interfere and are destructive of commerce between the States, and those advocating this bill desire to remove what they believe to be obstructions to the proper transaction of business in certain commodities. That is the title; that is the purpose, and nobody will challenge it.

Mr. MADDEN. Will the gentleman yield?

Mr. FITZGERALD. I yield to the gentleman.

Mr. MADDEN. If the purpose of the bill is as stated by the gentleman from New York [Mr. FITZGERALD], how does the Committee on Agriculture get the jurisdiction of it?

Mr. FITZGERALD. That is not material, for the reason that as it is a general bill, the committee having reported it the question of jurisdiction can not be raised. The gentleman knows as well as I do the jurisdiction of the committee under the rules.

Mr. MANN. Will the gentleman yield in that connection?

Mr. FITZGERALD. Yes.

Mr. MANN. The bill was referred to the Committee on Agriculture by the Speaker in both cases. If the Speaker had considered that the main subject was interstate commerce, would he not have referred the bill to the proper committee, considering it was relating to agricultural products—

Mr. FITZGERALD. I think the Speaker did what any other occupant of the chair would have done. For a number of years identical bills have been introduced in this House, and under the régime of the friends of the gentleman from Illinois, for one reason or another, I have never been able to determine just what they were sent to the Committee on Agriculture, and under the well-established practice of the House that having been done, and not challenged and not objected to, and that



committee having considered and reported the bills in the ordinary course of events, the following Speaker would naturally, there having been no change of the rules, send the bill to the same committee. I believe any other course would have subjected the Speaker to criticism.

Mr. MANN. Nobody is criticizing the Speaker. He referred the bill correctly. The principal subject is not commerce. The principal subject is transactions as to agricultural products.

Mr. FITZGERALD. Mr. Speaker, that is the argument I made the other day, to the effect that these messages did not constitute interstate commerce, and I did not know at that time that the gentleman had assented to my position. Of course, if my contention be correct, as it now seems the gentleman from Illinois agrees, this bill is not constitutional.

Mr. MANN. We are both opposed to the bill.

Mr. FITZGERALD. The Speaker sent these bills to the Committee on Agriculture, I assume—I have not asked why or conferred with him—because for a number of years similar bills have been introduced in the House and have been sent to that committee, hearings have been held by that committee, and members of that committee were supposed to be more familiar with the subject than the members of the committee over which the gentleman formerly presided.

Mr. LEVER. Will the gentleman yield?

Mr. FITZGERALD. I yield.

Mr. LEVER. I desire to call the gentleman's attention to the fact that the oleomargarine act, placing a tax on oleomargarine—a bill proposing to raise revenue—which, by right, ought to have gone to the Ways and Means Committee, went to the Committee on Agriculture.

Mr. MANN. The gentleman holds that the object of the bill was to raise revenue?

Mr. FITZGERALD. We have to recognize that certain bills have to go to certain committees because of reasons over which the Speaker has no control. Nobody pretends to question the propriety of the reference, and it does not help out the question as to whether this amendment is in order or not. The primary purpose of this bill being to prohibit acts which it is contended are in interference with commerce between the States, and the same committee having reported two bills with the identical title, one covering a matter that is now before the House and the other covering the commodities to be affected by the amendment now pending in the House, it seems to me there can be no question whatever. The amendment must be germane to this bill.

Mr. LONGWORTH. Just a word in that connection. I would like to call the Speaker's attention to the statement of the committee as to the purpose of this bill.

The SPEAKER. Does the gentleman refer to H. R. 56?

Mr. LONGWORTH. H. R. 56. The only statement in the report as to the purpose of the bill is this statement, which I will read to the Chair:

The purpose of the bill is to restrict, so far as may be, those transactions on the cotton exchanges of the country which are recognized as dealing only with the fluctuations in the price of cotton and which do not involve the actual transfer of the commodity.

That is the statement of the committee itself with regard to the purpose of the bill.

Mr. MANN. One word, Mr. Speaker. We had a question very similar to this in the House only a few days ago, when the bill providing for the creation of the department of labor was under consideration in Committee of the Whole last Wednesday. I then offered an amendment to that bill, providing for the appointment of a commission to study subjects provided for in the bill itself in cooperation with the department of labor. The gentleman from Alabama [Mr. UNDERWOOD] made the point of order that the amendment which I offered was not germane to the bill. While I thought the Chair was erroneous, the Chair held that although the two matters related to the same subject, yet the amendment providing for the appointment of a commission was not germane to a bill providing for the creation of the department of labor, and ruled the amendment out of order.

I will not take the time of the Speaker to discuss the cases cited by the gentleman from New York [Mr. FITZGERALD]. They are all referred to in the manual in connection with the cases which he cited; and the cases which he cited, in my judgment, have no relation to the subject now under consideration.

Mr. RUCKER of Colorado. Mr. Speaker, just one word. I have heard a great deal of lore upon precedents in this House concerning this matter. Now, this is a subject sui generis. The question here is not whether it is a product of the soil so much as it is a question of gambling in the future products of the soil. Therefore—

The SPEAKER. Is that the question or not?

Mr. RUCKER of Colorado. I think that is absolutely the question. Both bills here aim at the same proposition.

The SPEAKER. The Chair knows that; but the House at the present time has nothing to do with that second bill that the gentleman from New York cited.

Mr. RUCKER of Colorado. Well, I want to say in regard to that, Mr. Speaker, the illustration that has been given here concerning whether it was a bill in behalf of one man, and therefore an amendment would be in order in behalf of another, does not apply in this case at all, because this is a subject relating to the question of a production of the soil, and cotton is one and grain is another. There surely can be no question between us that there should be any disrelation between the two.

Mr. FITZGERALD. Mr. Speaker, I wish to add one observation, if I may. If the bill H. R. 18323 were pending, which covers wheat and oats and corn, and an amendment were offered to insert the word "cotton," no man in this House would seriously contend that that amendment was subject to a point of order because not germane.

The SPEAKER. No; he would not if he had ever read the decisions. He would not contend it for half a second. It would undoubtedly be competent to offer to that bill that the gentleman refers to an amendment to insert the word "cotton."

Mr. FITZGERALD. Then, Mr. Speaker, it would be very extraordinary if one bill is germane to the subject matter of another and that one in turn not germane to the bill germane to it.

Mr. MANN. Mr. Speaker—

The SPEAKER. The Chair is ready to rule, and does not want to hear any more arguments about it. [Laughter.] The Chair did not mean to be discourteous at all. If the Chair chose to do so, he could find precedents in the action of eminent Speakers whereby he could submit this question to the House and dodge it. Mr. Speaker Blaine, one of the greatest men who ever occupied the Speaker's chair [applause], did that on more than one occasion [laughter], and the Chair has one of the precedents right here before him now. But the Chair is not going to do anything of the sort. The Chair had two or three hours' notice that this question would probably be raised, and the Chair went to work and examined all the precedents, and they all run one way. It does not make any difference what the Chair wants about this bill or what anybody else wants. The only thing for the Speaker to do is either to follow the precedents or to upset them and make a new one. With the merits of the bill he has absolutely nothing to do in ruling on the point of order.

The parliamentary situation is this: The gentleman from Missouri [Mr. RUBEY] offers a substitute for section 2 of the bill, by which substitute he proposes to add wheat, corn, and so forth, to the bill. The proposition, whether brought in as an amendment or in a motion to recommit, which is the same thing precisely, must be germane.

Now, it has been held, with reference to the last suggestion made by the gentleman from New York [Mr. FITZGERALD] that if the other bill—that is, the one treating of futures in wheat, corn, and several other subjects—were pending here, which is general in its character, then we could add to it by way of amendment the item of cotton. There is no question whatever about that, if we pay any attention to the precedents. It has been held, for instance, that if a bill were pending to admit one Territory into the Union as a State we could not add another as an amendment; that situation would be identical with the present situation; but when the proposition was turned around, and there was a bill that proposed to bring more than one Territory into the Union as States, then we could add another Territory to that bunch. All of the decisions run in the same direction. Right or wrong, that is the substance of all the decisions, and there are many of them.

Now, let us apply these precedents to the case before us. What is the subject matter of the section to which the gentleman from Missouri [Mr. RUBEY] is offering an amendment by way of substitute? And what is the subject matter of this bill? The Chair expresses his own opinion, independent of this report, that the only thing talked about or treated in this bill is the question of dealing in cotton futures. The committee must have known what it was up to, or thought it did, when it presented this report. Here is a paragraph from the report:

The purpose of the bill is to restrict, so far as may be, those transactions on the cotton exchanges of the country which are recognized as dealing only with the fluctuations in the price of cotton and which do not involve the actual transfer of the commodity. It does not seek to prohibit or to interfere with a single legitimate transaction in cotton.

And so forth.

The precedent that comes nearest to supporting the contention of the gentleman from New York [Mr. FITZGERALD] is one about renovated butter. The title of the bill under consideration then was in reference to "oleomargarine and other imitation dairy products." Evidently the distinguished gentleman from Iowa, Mr. Lacey, who happened to be in the chair at that time, let this amendment about renovated butter come in under the words "imitation of dairy products," because I know enough about butter—and most of the Members of this House do, especially those from the rural districts—to know that renovated butter is essentially an imitation of butter.

The decision which Gen. Grosvenor rendered about the canals was a correct decision, and if I had been in the chair I would have decided the same way myself. The question then under consideration was building a canal to connect the waters of the Atlantic and the Pacific, and the fact that the original bill referred to the Nicaragua route and the amendments proposing the Panama route were mere incidents.

In one case Mr. Speaker CANNON rendered a decision which is in point here. There was a proposition pending in the House to appropriate money to get rid of the boll weevil, and the gentleman from Massachusetts [Mr. GILLET] offered an amendment to appropriate money to get rid of the gypsy moth. Speaker CANNON ruled that one proposition had nothing to do with the other.

The matter in controversy here is cotton and cotton futures, and nothing else, and the point of order made by the gentleman from Illinois [Mr. MANN] is sustained.

Mr. FOWLER. Mr. Speaker, I offer the following amendment to the bill.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend the bill by striking out the word "cotton" wherever it occurs in section 2 of the bill and substitute the words "agricultural products."

Mr. MANN. I make a point of order against the amendment.

The SPEAKER. The point of order is sustained.

Mr. FITZGERALD. Mr. Speaker, I move to strike out the word "cotton" where it occurs in line 20, line 25, and line 1 on page 3.

The SPEAKER. The Clerk will report the amendment.

The Clerk read as follows:

Amend by striking out the word "cotton" where it occurs on page 2, lines 20 and 25, and also on line 1, page 3.

Mr. FITZGERALD. Mr. Speaker, there was sufficient room for difference of opinion on the point of order raised to make me acquiesce in whatever decision the Chair made. The Speaker said that it would be easy to find authorities leading one way or the other. I do not find fault with the Chair for deciding the question in the manner in which he did in view of the authorities. But if this House desires to make this bill apply to wheat and corn and oats and other farm products, it can do so without violating the rules of the House and without asking the Speaker to make a ruling which would be in defiance of his honest judgment.

The adoption of the amendment which I offer will take from this section the word "cotton," and that being out of the section it would not be possible to hold that this section would apply only to cotton. It would then be in order to insert in proper places the words "cotton, wheat, corn, or oats."

Mr. RUCKER of Colorado rose.

Mr. FITZGERALD. I can not yield, for I have only five minutes. It is a perfectly proper and legitimate procedure. It will enable this House under its rules, which I have always contemplated were sufficiently liberal to enable the House to do what it wishes if it knows what it wishes and knows how to do it, to do what apparently is the desire of the great majority of the Members of the House. If this amendment be adopted, I shall offer an amendment to insert "wheat, corn, oats, cotton, and other farm products," and I shall test the sincerity of the Members of the House in this manner by giving them an opportunity to record themselves on this amendment as a preliminary step under the rules of the House so to broaden this bill that it will cover other commodities and similar transactions, which are just as offensive to morals and just as detrimental to business as the same transactions are claimed to be with reference to cotton.

Now, Mr. Speaker, it is not necessary to strain the rules; it is not necessary to make rulings that can not be justified under the precedents to do what is desired. It is easy to accomplish legitimately what I assume the House desires.

Mr. HENRY of Texas. Will the gentleman yield?

Mr. FITZGERALD. Yes.

Mr. HENRY of Texas. If the Committee on Rules would bring in a rule making in order the consideration of the bill

with reference to wheat, corn, oats, and so forth, would the gentleman from New York help us to put the bill through?

Mr. FITZGERALD. Does the gentleman mean if I would vote for the bill?

Mr. HENRY of Texas. Yes.

Mr. FITZGERALD. I could not vote for it honestly. I do not intend to deceive anybody about my position on these two bills. They cover the same transactions in different commodities. Why the committee segregated cotton from the other products I do not know. Why the committee did not include them all in one bill I do not know. The people in the section from which I come are affected as much by one as the other. They have exchanges of a similar character upon which all of these commodities are dealt in, and it seems to me that gentlemen should not attempt to single out one class as victims of this legislation and let the others go free. I wish to eliminate the abuse in these transactions wherever they may be, but I do not wish to destroy legitimate business. As I have heretofore given my reasons for believing the bills in contravention of the Constitution, I can not vote for either one.

Mr. HEFLIN. Mr. Speaker, I was about to say a moment ago that the hearings before the Committee on Agriculture disclosed the fact that neither the president of the New York Exchange nor the president of the New Orleans Exchange knew how many bales of cotton were actually handled on these exchanges in a single year. We asked these gentlemen, "Do you know how many bales of cotton are delivered on contracts made on your exchanges in one year?" and they answered that they did not. We asked them, "Do you know what percentage of the contracts made on your exchange in a year is fulfilled?" "I do not," came the answer from both exchanges. Then Mr. BEALL said, "Is there any way to get at that?" "I know of no way," said Mr. Nevill, of New York, "except showing our books, and I would not do that."

So, Mr. Speaker, the House has some idea now of what kind of a skin game the cotton producer is up against. The gentleman from Mississippi [Mr. DICKSON] has shown you that the New York Exchange in one year, in 1895 or 1896, when they were required to keep a record, received 23,000 bales, sold 90,000,000 bales, and had 169,000 bales left out of a crop of 10,000,000 bales. [Laughter and applause.]

I can not account for that cotton miracle except upon the reverse of the process employed by the bees in packing honey in the bee gum of old man Thornton in my district. He said, "I had a five-gallon bee gum and we robbed it the other day and got seven gallons of honey and two and a half gallons of honeycomb." Flue Busbee said, "Uncle Jake, you just said that it was a five-gallon gum," and he replied, "By gosh, bees are the out-packinest things you ever seen in this world." [Laughter.]

So, Mr. Speaker, we have these slick-fingered artists of the exchange treating us to a genuine cotton miracle. Nobody but an exchange member could sell 90,000,000 bales of cotton out of a 10,000,000 crop. [Laughter and applause.] It takes the cotton producer of the South 12 months to make a cotton crop of 12,000,000 bales, but these gentlemen on the exchange can, in a few nights with a few chalk marks, make 500,000,000 bales. [Applause.] We have this mysterious and miraculous cotton in competition with actual cotton. One of the gentlemen in the hearings, Mr. Patteson, of Memphis, said that he dealt in manufactured feed stuff. When asked to whom he sold he said to everybody, from the man who wants 1 bushel to the man who wants 50 carloads. I then asked him who fixed the price of his produce, and he answered that he fixed the price himself. And yet gentlemen say, Who will fix the price for the cotton producer if the exchange does not? The cotton producer is denied now the right to say anything about what the price of his cotton shall be. If you take his cotton out of competition with this fictitious stuff, he will have a voice like the wool-grower has in fixing the price of wool, he will have a voice like the hay grower has in fixing the price of hay. As I have said here before, hay and wool have no exchange to fix the price of hay and wool. Why should the cotton producers of the South be compelled to submit to the evils of a gambling exchange? All that I ask at the hands of this House, and I ask it in the name of the cotton producers themselves, is an open market, where real cotton is bought and sold and real cotton is delivered on contracts. [Applause.]

Mr. HARDY. Mr. Speaker, I oppose the amendment offered by the gentleman from New York [Mr. FITZGERALD] if on no other ground than on the old ground that we should beware of the Greeks bearing gifts. We know the purpose of the gentleman is ultimately to succeed in defeating this legislation by one means or another. I favor the bill, and my reasons for favoring it are broad and deep. All legitimate producers are always



and equally entitled to the regard and esteem of the people; the care and consideration of Congress. The fruit grower, the cotton grower, the grain grower produce something and add to the wealth and welfare of the world. The manufacturer, no less than the grain grower or the cotton grower, is a producer, because he also adds to the value of the product and to the wealth and welfare of the world. Transportation agencies are no less producers than diggers of the soil, because they bring to the consumers the products of labor. The merchant is a producer also, because he aids in the distribution of products, a very essential element of their value. The physician is a producer, because he gives strength and health to the toiler. The teacher is a producer, because he trains the mind and body of his brother toiler. The writer is a producer, because he gives mental pabulum for the enjoyment and the mental and moral upbuilding of the human race. The player in the theater is a producer, because he adds to the sum total of the human possessions and enjoyments. So the lawyer, honestly aiding in administering the laws of the country and preserving and protecting the rights of property and of life, is a producer and helps secure the happiness of the whole human race. All these and many others forming the whole body of useful citizenship are entitled to equal consideration and esteem, but there are those who live who are in the class of leeches, who fasten themselves on the body politic and grow fat by sucking the life blood of their victim. They toll not, neither do they spin; yet Solomon, in all his glory, was not arrayed like one of these. They are those who reap where they have not sown, who gather where they have not strewn. If a man must gamble, adding thereby nothing to the sum total of human life or possessions, he had best betake himself to the game of poker. It is fair and even, if played between gentlemen. It is bad enough, but its evil is limited and confined to few. Next to that in objectionable features, perhaps, is horse racing, and that would not be so bad were it not for the throw-offs and the put-up jobs. The Louisiana lottery had its place in the history of our country. It was fair in one respect, in that there was only a certain percentage taken out to pay expenses and large profits. Every ticket holder was given a fair and equal chance to draw a lucky number in the distribution of the prizes left over after the company had taken out its unearned but great percentage of the moneys paid in. We have by law stopped almost all forms of professed gambling—big and small. We have forbidden them at least to be flaunted in the public face.

But this cotton-future gambling is a shell game, pure and simple; it is a bald, barefaced skinning of the whole people.

There is neither justification nor excuse nor mitigation for it, and its place in the economy of this country is that of the gambler who does not give his victim a chance for his life. But being a business in which the constituents of some Members, and worthy Members of this body, are engaged, it finds defenders in this body as any other business would if the welfare of a number of our constituents were involved in it. But if there were no constituents of any Member of this House whose business was substantially the making of a livelihood and growing rich out of this calling, there would be no opposition to this bill to-day. Take away the great cities where stock gambling is rampant—New York, New Orleans, Chicago, St. Louis, and places where men live and thrive upon the losses and desolation wrought by the gambler in the futures of cotton, grain, and other products—I say take away the influences that arise from the industry and there would be absolutely no opposition to this measure. This industry never planted a seed, never spun a thread, never laid a brick, never added a grain to the health, wealth, or welfare of mankind. It is a leech, a vampire, and ought to be killed.

The SPEAKER. The time of the gentleman has expired.

Mr. RUBEY. Mr. Speaker, I move that all debate on this amendment close in five minutes.

The SPEAKER. The gentleman from Missouri moves that all debate on this amendment close in five minutes.

Mr. FOSTER. I move to amend it by making it on this section.

The SPEAKER. The gentleman from Illinois moves as an amendment to the motion of the gentleman from Missouri that all debate on this section close in five minutes.

Mr. HARDY. Mr. Speaker, I ask leave to extend my remarks in the Record.

The SPEAKER. That will be done in a moment. The question is on the motion of the gentleman from Illinois.

The question was taken, and the motion was agreed to.

Mr. MANN. Mr. Speaker, I move to amend by making debate close in 30 minutes.

The SPEAKER. The question is upon the amendment offered by the gentleman from Illinois—

Mr. OLMSTED. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. OLMSTED. I would like to inquire whether debate is not already closed on this amendment?

The SPEAKER. Under the rule it is closed if anybody objects to an extension of time.

Mr. FITZGERALD. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. FITZGERALD. How much time is left?

The SPEAKER. There are 29 minutes left.

Mr. MANN. Mr. Speaker, I move to amend the amendment of the gentleman from Missouri by moving that all debate close in 29 minutes.

Mr. FITZGERALD. It will take a quorum to do that.

The SPEAKER. The gentleman from Illinois offers an amendment to the motion of the gentleman from Missouri that all debate on this section close in 29 minutes.

Mr. FOSTER. Mr. Speaker, I think that the gentleman from Missouri made a motion to close debate upon this amendment, and my motion was that all debate on this section close in five minutes, and the amendment which the gentleman from Illinois offers now is not in order to that amendment.

Mr. MANN. The gentleman from Missouri [Mr. RUBEY] offered a motion that all debate upon the pending amendment close in five minutes; thereupon my colleague moved to amend by making all debate upon the section close in five minutes. That was adopted, but the motion has not been put yet upon the motion of the gentleman from Missouri as amended, and that is still subject to amendment.

Mr. FITZGERALD. Mr. Speaker, I offer to amend the amendment of the gentleman from Illinois by striking out "29" and inserting "immediately."

Mr. MANN. Mr. Speaker, I make the point of order against that that it is an amendment in the third degree.

The SPEAKER. The situation about it is that the gentleman from Missouri [Mr. RUBEY] moved that all debate on the amendment offered by the gentleman from New York close in five minutes. Then the gentleman from Illinois [Mr. FOSTER] offered to amend that by moving that all debate on the section close in five minutes, and that was agreed to.

Mr. MANN. That amendment was.

The SPEAKER. That leaves the amendment of the gentleman from Missouri as amended by the amendment.

Mr. FITZGERALD. That was a motion, not an amendment.

The SPEAKER. The gentleman is right about that—that was a motion. The gentleman from New York is technically correct. That left the motion of the gentleman from Missouri as amended by the amendment of the gentleman from Illinois [Mr. FOSTER] undecided.

Mr. FITZGERALD. Now, the gentleman offered an amendment to that motion, and I offer an amendment to his amendment, which is in the second degree.

Mr. MANN. Certainly not.

Mr. FITZGERALD. The pending motion is the motion as amended.

The SPEAKER. The pending motion is the motion of the gentleman from Missouri [Mr. RUBEY] as amended by the motion of the gentleman from Illinois [Mr. FOSTER], and the gentleman from Illinois [Mr. MANN] offers an amendment to that to close debate in 29 minutes. That is pending. Then the gentleman from New York [Mr. FITZGERALD] moves to strike out "twenty-nine" and insert "immediately," and the vote is on that proposition.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. BEALL of Texas. Division, Mr. Speaker.

The House divided; and there were—ayes 49, noes 57.

The SPEAKER. The amendment offered by the gentleman from New York [Mr. FITZGERALD] is rejected.

Mr. FITZGERALD. Oh, no. I move to amend by striking out "twenty-nine" and inserting "ten" minutes. I call the attention of the House to the fact—

Mr. MANN. I make the point of order that the motion is not debatable. The gentleman ought not to violate the rules.

Mr. FITZGERALD. I will not. I ask unanimous consent for one minute.

Mr. FOWLER. Mr. Speaker, I rise to a point of order.

The SPEAKER. The gentleman will state it.

Mr. FOWLER. My point of order is that there has been more than two speeches on this motion.

The SPEAKER. Why, there is nobody trying to make a speech on this motion, unless the gentleman from New York [Mr. FITZGERALD] gets unanimous consent.

Mr. FOWLER. Mr. Speaker, the motion that is before the House now deals with the question of debate upon the amendment, and there has been more than two speeches made upon that amendment.

The SPEAKER. That is true.

Mr. FOWLER. And I make the point of order that the time has expired for debate on that amendment.

The SPEAKER. The time would have expired, and the Chair would have so ruled if the point had been made and the gentleman from Missouri had not offered his motion.

Mr. MANN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER. The gentleman will state it.

Mr. MANN. Is the time now being consumed being taken out of the hour?

The SPEAKER. It is not. That ruling may be wrong, but the Chair is going to stick to it to-day anyway. [Applause.]

The question is on the motion of the gentleman from New York [Mr. FITZGERALD] to insert "10 minutes" instead of "29 minutes" for the closing of the debate on this section.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent to address the House for one minute.

Mr. MANN. Mr. Speaker, if the gentleman gets that consent will that time be taken out?

The SPEAKER. It will.

Mr. MANN. If the gentleman will give consent for the same amount of time to the gentleman in charge of the bill—

Mr. FITZGERALD. I have no objection to that.

Mr. MANN. I ask unanimous consent that the gentleman from New York [Mr. FITZGERALD] have five minutes.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent that the gentleman from New York [Mr. FITZGERALD] and the gentleman from Texas [Mr. BEALL], in charge of the bill, have each five minutes.

Mr. FOSTER. I object.

Mr. FINLEY. I reserve the right to object, Mr. Speaker.

The SPEAKER. The gentleman from New York [Mr. FITZGERALD] asks unanimous consent for one minute. Is there objection?

Mr. RUCKER of Colorado. I object.

The SPEAKER. The gentleman from Colorado objects. The question is on the 10-minute proposition.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. FOSTER. Division, Mr. Speaker.

The House divided, and there were—ayes 44, noes 64.

So the motion was rejected.

Mr. FOSTER. I move to amend by making it 15 minutes.

Mr. MANN. Mr. Speaker, I make a point of order that that motion is a dilatory motion.

Mr. FOSTER. Oh, no.

The SPEAKER. The Chair overrules the point of order.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent to address the House for one minute.

The SPEAKER. The gentleman from Illinois [Mr. FOSTER] moves to close debate on this question in 15 minutes.

Mr. FITZGERALD. Mr. Speaker, I ask unanimous consent to address the House for one minute on the motion.

Mr. MANN. He can get it after we close debate.

Mr. FINLEY. Mr. Speaker, I object.

Mr. MADDEN. I object, Mr. Speaker.

The SPEAKER. The gentleman from South Carolina [Mr. FINLEY] objects. The question is on agreeing to the motion to close the debate in 15 minutes.

The question was taken, and the Speaker announced that the noes seemed to have it.

Mr. FOSTER. Mr. Speaker, I ask for a division. We are going to have a quorum here.

The House divided; and there were—ayes 46, noes 71.

So the motion was lost.

The SPEAKER. The question is on the motion of the gentleman from Missouri [Mr. RUBEY], as amended by the motion of the gentleman from Illinois [Mr. FOSTER], to close debate on this section in five minutes.

Mr. MANN. Mr. Speaker, the motion that is pending is an amendment offered by me to close debate in 29 minutes.

The SPEAKER. That is true. The vote will be taken on the motion of the gentleman from Illinois [Mr. MANN], to close debate on this section in 29 minutes.

Mr. OLMSTED. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. OLMSTED. How long will that 29 minutes take beyond all the time allowed for debate on this bill in the House?

Mr. FLOYD of Arkansas. Will it not consume all of the time?

The SPEAKER. It will consume all of the time.

#### IMPEACHMENT OF JUDGE ROBERT W. ARCHBALD.

Mr. CLAYTON. Mr. Speaker, I desire to make a privileged report.

The SPEAKER. The gentleman from Alabama [Mr. CLAYTON] is recognized.

Mr. CLAYTON. It is necessary, Mr. Speaker, to make this statement.

Mr. MANN. Mr. Speaker, the gentleman from Alabama [Mr. CLAYTON] ought to have opportunity to make a report, although we are acting under a rule.

Mr. CLAYTON. I was going to say, Mr. Speaker, that before many minutes shall elapse the Senate will require the presence of the managers on the part of the House before that body, and therefore I desire to make a brief report to the House at this juncture.

Mr. Speaker, as one of the managers, and in behalf of all the managers on the part of the House of the impeachment proceedings, I beg to report to the House that the articles of impeachment prepared by the House of Representatives and preferred against Robert W. Archbald, a United States circuit judge and designated as a judge of the Commerce Court of the United States, have been exhibited and read to the Senate; that the Presiding Officer of that body stated to the managers that the Senate would take order in the premises, and that due notice of the same would be given to the House of Representatives.

#### SALE OF FUTURES IN COTTON.

The SPEAKER. The question is on agreeing to the amendment offered by the gentleman from Illinois [Mr. MANN] to close debate on this section in 29 minutes.

The question was taken, and the amendment offered by Mr. MANN was agreed to.

Mr. ROBINSON. Mr. Speaker, I move to strike out the last word.

Mr. FITZGERALD. Mr. Speaker, I ask for a vote on the pending amendment. All debate on the pending amendment is exhausted under the rule, and the first question to be determined is that amendment, before other amendments can be offered.

Mr. MANN. Mr. Speaker, the pending proposition is the motion offered by the gentleman from Missouri [Mr. RUBEY] as amended by the amendment which was just adopted.

Mr. ROBINSON. I move, Mr. Speaker, to strike out the last word.

The SPEAKER. The Chair can not understand what the gentleman from Illinois [Mr. MANN] says.

Mr. MANN. The motion of the gentleman from Missouri [Mr. RUBEY] to close debate on the section, as amended a moment ago, has not been put to the House. The Speaker put only the amendment which I offered.

The SPEAKER. The Chair's recollection is different. The question is on the motion of the gentleman from Missouri as amended by the amendment of the gentleman from Illinois, Mr. FOSTER, as amended by the amendment of the gentleman from Illinois, Mr. MANN.

The question was taken, and the motion of Mr. RUBEY as amended was agreed to.

The SPEAKER. The gentleman from Arkansas [Mr. ROBINSON] is recognized.

Mr. FITZGERALD. Mr. Speaker, I ask for a vote on the pending amendment. All debate is exhausted.

The SPEAKER. The gentleman from New York is correct. Mr. MANN. Mr. Speaker, I make a point of order that the House has control over the time. The House by a vote has decided that the debate on this section shall end in 29 minutes.

The SPEAKER. That is true, but that has nothing in the world to do with the voting on these amendments.

Mr. FITZGERALD. Yes. Otherwise no other amendment could be offered.

The SPEAKER. The vote is on the amendment offered by the gentleman from New York.

Mr. CLAYTON. Mr. Speaker, there is a message from the Senate that the House ought to receive at this time.

The SPEAKER. Gentlemen will suspend to receive a message from the Senate.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following order:

Ordered, That the Secretary notify the House of Representatives that the Senate, sitting as a court of impeachment, take a recess until 3 o'clock post meridian.

#### SALE OF FUTURES IN COTTON.

The House resumed consideration of the bill (H. R. 56) to prohibit interference with commerce among the States and Territories and with foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States and Territories and foreign nations.

The SPEAKER. The Clerk will report the amendment of the gentleman from New York.



The Clerk read as follows:

Page 2, line 20, strike out the word "cotton" where it twice occurs in that line. Strike out the word "cotton," in line 25, page 2. Strike out the word "cotton," in line 1, page 3.

Mr. MANN. Mr. Speaker, I make the point of order that the amendment is three amendments and debate can be had upon all three.

Mr. FITZGERALD. It is too late to make that point. I offered this as one amendment. The gentleman can have a division on the vote, but not for debate.

The SPEAKER. It is too late to raise that point now. The question is on the amendment.

Mr. MANN. I ask for a division of the amendment.

The SPEAKER. The gentleman has a right to divide the amendment. The Clerk will report the first substantive proposition.

The Clerk read as follows:

Page 2, line 20, strike out the word "cotton" where it twice occurs in that line.

Mr. MANN. I ask for a division of the amendment.

The SPEAKER. That is exactly what the Chair has ordered.

Mr. MANN. I know; but it is not what the Clerk has reported.

The SPEAKER. The Clerk will report the amendment to strike out the word "cotton" where it first occurs.

The Clerk read as follows:

Page 2, line 20, strike out the word "cotton" at the beginning of the line.

The question was taken; and on a division (demanded by Mr. FITZGERALD) there were—ayes 8, noes 87.

Mr. FITZGERALD. Mr. Speaker, I make the point of order that there is no quorum present.

The SPEAKER. Evidently there is no quorum present. The Doorkeeper will close the doors and the Sergeant at Arms will notify absentees. Those in favor of striking out the word "cotton" at the beginning of the line read by the Clerk will vote "aye," those opposed will vote "no," and the Clerk will call the roll.

The question was taken, and there were—ayes 18, nays 209, answered "present" 11, not voting 151, as follows:

YEAS—18.			
Buchanan	Dalzell	Olmsted	Whitacre
Bulkeley	Dupré	Payne	Wilson, N. Y.
Calder	Estopinal	Peters	Young, Kans.
Connell	Fitzgerald	Redfield	
Courry	Greene, Mass.	Rucker, Colo.	
NAYS—209.			
Aiken, S. C.	Finley	Lafferty	Roberts, Mass.
Alney	Flood, Va.	La Follette	Roberts, Nev.
Alexander	Floyd, Ark.	Langham	Robinson
Anderson, Minn.	Foss	Lawrence	Roddenbery
Anderson, Ohio	Fowler	Lee, Ga.	Rothermel
Austin	Francis	Lee, Pa.	Rouse
Barchfeld	French	Lenroot	Rubey
Barnhart	Fuller	Lever	Russell
Bathrick	Gallagher	Lewis	Sabath
Beall, Tex.	Gardner, Mass.	Lindbergh	Sims
Bell, Ga.	Garner	Linthicum	Sisson
Berger	George	Littlepage	Slayden
Blackmon	Godwin, N. C.	Lloyd	Sloan
Booher	Good	Lobeck	Small
Borland	Goodwin, Ark.	Longworth	Smith, Saml. W.
Bowman	Gould	McCreary	Smith, N. Y.
Brown	Gray	McGillcuddy	Smith, Tex.
Burgess	Green, Iowa	McKellar	Speer
Burke, S. Dak.	Gregg, Pa.	McKinney	Stanley
Burke, Wis.	Gregg, Tex.	McLaughlin	Stedman
Burleson	Gudger	Madden	Steenerson
Burnett	Hamill	Maguire, Nebr.	Stephens, Cal.
Byrnes, S. C.	Hamlin	Martin, Colo.	Stephens, Miss.
Byrns, Tenn.	Hammond	Matthews	Stephens, Nebr.
Candler	Hardy	Mays	Stephens, Tex.
Cannon	Harris	Miller	Sterling
Carlin	Harrison, Miss.	Mondell	Stone
Catlin	Hartman	Moore, Pa.	Sulloway
Clark, Fla.	Haugen	Morgan	Sweet
Clayton	Hawley	Morrison	Switzer
Cline	Hayden	Moss, Ind.	Taggart
Cooper	Heald	Mott	Talcott, N. Y.
Copley	Hefflin	Murray	Taylor, Ala.
Cox, Ind.	Helgesen	Neeley	Taylor, Ohio
Cullop	Henry, Tex.	Norris	Thayer
Curry	Hensley	Nye	Thistlewood
Danforth	Hobson	Oldfield	Tilson
Davis, Minn.	Houston	O'Shaunessy	Towner
Davis, W. Va.	Howard	Padgett	Trubble
Dent	Howland	Page	Turnbull
Dickinson	Hull	Pepper	Utter
Dickson, Miss.	Humphrey, Wash.	Pickett	Volstead
Diffenderfer	Jacoway	Post	Warburton
Dixon, Ind.	James	Pou	Watkins
Donohoe	Johnson, Ky.	Pray	Webb
Doughton	Kendall	Prince	Wedemeyer
Driscoll, D. A.	Kennedy	Prouty	White
Edwards	Kent	Rainey	Willis
Esch	Kinkaid, Nebr.	Raker	Wilson, Pa.
Evans	Kitchin	Rauch	Witherspoon
Faison	Knowland	Rees	
Farr	Konop	Reilly	
Fergusson	Lafean	Richardson	

## ANSWERED "PRESENT"—11.

Browning	Foster	McMorran	Sparkman
Butler	Gillett	Mann	Stevens, Minn.
Fields	Kahn	Needham	

## NOT VOTING—151.

Adair	Dodds	Jackson	Pujo
Adamson	Doremus	Johnson, S. C.	Randell, Tex.
Akin, N. Y.	Draper	Jones	Ransdell, La.
Allen	Driscoll, M. E.	Kindred	Reyburn
Ames	Dwight	Kinkaid, N. J.	Riordan
Andrus	Dyer	Konig	Rodenberg
Ansberry	Ellerbe	Kopp	Rucker, Mo.
Anthony	Fairchild	Korbly	Saunders
Ashbrook	Ferris	Lamb	Scully
Ayres	Focht	Langley	Sells
Bartholdt	Fordney	Legare	Shackelford
Bartlett	Fornes	Levy	Sharp
Bates	Gardner, N. J.	Lindsay	Sheppard
Boehne	Garrett	Littleton	Sherley
Bradley	Glass	Loud	Sherwood
Brantley	Goeke	McCall	Simmons
Broussard	Goldfogle	McCoy	Slemp
Burke, Pa.	Graham	McDermott	Smith, J. M. C.
Callaway	Griest	McGuire, Okla.	Smith, Cal.
Campbell	Guernsey	McHenry	Stack
Cantrill	Hamilton, Mich.	McKenzie	Sulzer
Carter	Hamilton, W. Va.	McKinley	Talbott, Md.
Cary	Hanna	Macon	Taylor, Colo.
Claypool	Hardwick	Maher	Thomas
Collier	Harrison, N. Y.	Martin, S. Dak.	Townsend
Covington	Hay	Moon, Pa.	Tuttle
Cox, Ohio	Hayes	Moon, Tenn.	Underhill
Crabo	Helm	Moore, Tex.	Underwood
Cravens	Henry, Conn.	Morse, Wis.	Vare
Crumpacker	Higgins	Murdock	Vreeland
Curley	Hill	Nelson	Weeks
Currier	Hinds	Palmer	Wilder
Daugherty	Holland	Parran	Wilson, Ill.
Davenport	Howell	Patten, N. Y.	Wood, N. J.
Davidson	Hughes, Ga.	Patton, Pa.	Woods, Iowa
De Forest	Hughes, N. J.	Plumley	Young, Mich.
Denver	Hughes, W. Va.	Porter	Young, Tex.
Dies	Humphreys, Miss.	Powers	

So the amendment was rejected.

The following pairs were announced:

For the session:

Mr. UNDERWOOD with Mr. MANN.

Mr. ADAMSON with Mr. STEVENS of Minnesota.

Mr. BARTLETT with Mr. BUTLER.

Mr. HOBSON with Mr. FAIRCHILD.

Mr. GLASS with Mr. SLEMP.

Mr. RIORDAN with Mr. ANDRUS.

Mr. FARNES with Mr. BRADLEY.

Until further notice:

Mr. YOUNG of Texas with Mr. WILSON of Illinois.

Mr. ADAIR with Mr. AMES.

Mr. ALLEN with Mr. BARTHOLDT.

Mr. ANSBERRY with Mr. BURKE of Pennsylvania.

Mr. ASHBROOK with Mr. CRUMPACKER.

Mr. AYRES with Mr. CURRIER.

Mr. BRANTLEY with Mr. DE FOREST.

Mr. CLAYPOOL with Mr. DODDS.

Mr. COLLIER with Mr. WOODS of Iowa.

Mr. CURLEY with Mr. DRAPER.

Mr. DAUGHERTY with Mr. FOCHT.

Mr. DIES with Mr. GARDNER of New Jersey.

Mr. FERRIS with Mr. GUERNSEY.

Mr. GOLDFOGLE with Mr. HAYES.

Mr. HAMILTON of West Virginia with Mr. HENRY of Connecticut.

Mr. HAY with Mr. HOWELL.

Mr. HELM with Mr. JACKSON.

Mr. HOLLAND with Mr. MCGUIRE of Oklahoma.

Mr. HUGHES of New Jersey with Mr. MCCALL.

Mr. HUGHES of Georgia with Mr. MCKENZIE.

Mr. JOHNSON of Kentucky with Mr. MCKINLEY.

Mr. JONES with Mr. MARTIN of South Dakota.

Mr. KONIG with Mr. MURDOCK.

Mr. KORBLY with Mr. PATTON of Pennsylvania.

Mr. FOSTER with Mr. KOPP.

Mr. McDERMOTT with Mr. POWERS.

Mr. MOON of Tennessee with Mr. PORTER.

Mr. PATTEN of New York with Mr. REYBURN.

Mr. SAUNDERS with Mr. RODENBERG.

Mr. SHARP with Mr. SELLS.

Mr. SHERLEY with Mr. SIMMONS.

Mr. SULZER with Mr. J. M. C. SMITH.

Mr. THOMAS with Mr. VREELAND.

Mr. TOWNSEND with Mr. WEEKS.

Mr. TUTTLE with Mr. YOUNG of Michigan.

Mr. AYRES with Mr. WILDER.

Mr. SCULLY with Mr. BROWNING.

Mr. TALBOTT of Maryland with Mr. PARRAN.

Mr. FIELDS with Mr. LANGLEY.

Mr. BOEHNE with Mr. CARY.

Mr. CALLAWAY with Mr. MICHAEL E. DRISCOLL.  
 Mr. CANTRELL with Mr. HANNA.  
 Mr. MCCOY with Mr. HIGGINS.  
 Mr. COVINGTON with Mr. HUGHES of West Virginia.  
 Mr. SHACKLEFORD with Mr. WOOD of New Jersey.  
 Mr. SHERWOOD with Mr. MOON of Pennsylvania.  
 Mr. HUMPHREYS of Mississippi with Mr. ROBERTS of Nevada.  
 Mr. GRAHAM with Mr. VARE.  
 Mr. RANDELL of Texas with Mr. SMITH of California.  
 Mr. ELLERBE with Mr. CRAIG.  
 Mr. JOHNSON of South Carolina with Mr. GILLET.  
 Mr. LEGARE with Mr. LOUD.  
 Mr. LITTLETON with Mr. DWIGHT.  
 Mr. PUJO with Mr. McMORRAN.  
 Mr. HARDWICK with Mr. CAMPBELL.  
 Mr. CARTER with Mr. KAHN.  
 Mr. SHEPPARD with Mr. BATES.  
 Mr. GOEKE with Mr. HEALD.  
 Mr. RUCKER of Missouri with Mr. DYER.  
 Mr. HARRISON of New York with Mr. HAMILTON of Michigan.  
 Mr. KINDRED with Mr. GRIEST.  
 Mr. SPARKMAN with Mr. DAVIDSON.  
 Mr. PALMER with Mr. HILL.  
 Mr. ADAIR with Mr. HINDS.

Until August 1:

Mr. COX of Ohio with Mr. ANTHONY.

Commencing to-day and until further notice:

Mr. GARRETT with Mr. FORDNEY.

Mr. BROWNING. Mr. Speaker, did the gentleman from New Jersey, Mr. SCULLY, vote?

The SPEAKER. He did not.

Mr. BROWNING. I have a pair with the gentleman, and I wish to withdraw my vote of "no" and answer "present."

The name of Mr. BROWNING was called, and he answered "Present," as above recorded.

Mr. MANN. Mr. Speaker, I am paired with the gentleman from Alabama, Mr. UNDERWOOD. I desire to withdraw my vote of "no" and be recorded as "present."

The Clerk called the name of Mr. MANN, and he answered "Present," as above recorded.

The result of the vote was then announced as above recorded.

The SPEAKER. The Clerk will read the next amendment.

The Clerk read as follows:

Page 2, line 20, strike out the word "cotton" where it occurs the second time in the line.

The question was taken, and the amendment was lost.

The SPEAKER. The Clerk will read the next amendment.

The Clerk read as follows:

Page 2, line 25, strike out the word "cotton."

The question was taken, and the amendment was lost.

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Page 3, line 1, strike out the word "cotton."

The question was taken, and the amendment was lost.

Mr. MANN. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. MANN. How much time remains now under the rules?

The SPEAKER. Twenty-nine minutes.

Mr. MANN. Mr. Speaker, I move to strike out the last word. I have made a memorandum of analysis of H. R. 18323, which is identical with the bill under consideration, except that the present bill relates to cotton and the other bill relates to grain. I wish to call the attention of the House for a moment to some of the provisions in the bill H. R. 18323.

First. Section 2 of the bill creates two broad offenses; first, sending any message offering to make or enter into a contract for the purchase or sale for future delivery of wheat, corn, and oats without intending that such wheat, corn, or oats shall be actually delivered or received; second, offering to make or enter into a contract whereby any party acquires the right or privilege to demand in future acceptance or delivery of wheat, corn, or oats without being thereby obligated to accept or deliver such wheat, corn, or oats. The latter describes accurately the "put and call" trading. It is at the present time practiced on few of the leading grain exchanges, and nowhere is it a prominent feature of the business. The Chicago Board of Trade has absolutely forbidden it on this exchange, and other exchanges have done likewise. We have, however, on this exchange a system of trading in indemnities, which system is lawful under the statutes of this State and is necessary to the safe handling of grain products. This form of trading, however, would be absolutely condemned by this bill. Let me illustrate this: Suppose A, in Chicago, at the close to-day has offered 1,000,000 bushels of wheat to B, at Liverpool, at \$1 per bushel; he will not get an acceptance of his offer by cable until the following morning.

If B, however, does accept A's offer the contract is made whereby A is obligated to sell and deliver 1,000,000 bushels of wheat to B at \$1 per bushel. To safeguard himself against the contingency that B may accept his offer by the following morning and that the price of wheat has risen to \$1.02, or higher, per bushel, A will purchase from some trader an option for 1,000,000 bushels of wheat. If B rejects A's offer, A loses his insurance premium. If he accepts it and the price in the meantime has risen higher than the indemnity price, A calls upon the seller of the indemnity to deliver him the wheat.

Under the second clause of section 2 this form of trading, which is so absolutely essential to the merchandising of grain, will be absolutely forbidden, and the person who practices it is liable to imprisonment for doing a thing prompted by common business prudence.

Second. The first offense described in section 2 has to do with the ordinary and regular system of future trading as practiced upon the leading exchanges. As the section reads now it would have no effect whatever, because every trade made upon any legitimate exchange contemplates the actual delivery of the commodity. This section accurately describes a transaction in a bucket shop, where delivery is never contemplated or possible, but not to future trading upon the exchanges. What the framer of this bill is driving at is to compel every man who buys or sells grain for future delivery to keep his contract open until the time for delivery comes, and to prevent the system of "set-off" which, in the case of the Chicago Board of Trade v. Christie (198 U. S., 236; 49 Law ed., 1031), was held to constitute a delivery as then carried on under the rules existing on the Chicago Board of Trade. The inquiry becomes pertinent here whether any statute should compel a man to hold a contract open beyond a time when he finds that his judgment was wrong, and that the maintenance of the contract will involve him in further loss.

Another of the many objections which can be urged against this provision of section 2 arises under the following state of facts, which happens not once but thousands and thousands of times during the course of a year: Suppose A, a grain dealer in Decatur, Ill., is purchasing grain freely from the farmers; the only way he can safely buy all the grain that is offered to him is by hedging each purchase on the Chicago Board of Trade as fast as he takes the grain into the elevator; in other words, every 5,000 bushels he buys from the farmer he immediately sells 5,000 bushels for future delivery on the Chicago Board of Trade. Within a month or so, however, he finds that because of some local condition he can get a better price for that cash grain in New Orleans than he can in Chicago, and being an enterprising and prudent business man, he ships the grain to New Orleans and sells it there. When he sells it in New Orleans he will buy back his hedge on the Chicago Board of Trade.

Now, section 2 of this bill, in connection with the last few lines of section 3 which provide that the failure to deliver or receive the grain shall be prima facie evidence that there was no intention to deliver or receive such grain when the contract was made, would render the grain dealer at Decatur liable to a penitentiary sentence for adopting this course. I mean by this that the mere fact that he did not actually deliver the grain in Chicago, would be prima facie evidence whereby the case would go to the jury for their determination as to his original intent. In your judgment is it right and just that a business man should be exposed to the verdict of a jury composed largely of men who are absolutely ignorant of the grain business because he had adopted this prudent method of conducting his business?

Let me give another illustration of the absurdity of the proposed bill. Here is a miller who has purchased 100,000 bushels of wheat at \$1 per bushel to grind into flour. The illustration is equally pertinent to the case of a feeder of live stock who has purchased several hundred thousand bushels of corn to fatten cattle. The miller concludes that the price of wheat is going to decline which will cause the price of flour which is made from the wheat to decline; moreover, the cattle dealer sees a declining market for cattle; neither desires to speculate and therefore they hedge the amount of wheat or corn they have on hand upon some produce exchange. Now, it is perfectly evident that the miller can not deliver wheat on that contract, nor can the live-stock feeder deliver corn; what they do is to ship the finished product to market and when they have merchandised such finished product they buy in their hedge. Under the operation of this proposed bill, both the miller and the live-stock feeder would be in the shadow of the penitentiary.

There are illustrations almost without number whereby this bill can be shown to interfere with the most legitimate forms of commerce without reaching those particular forms of speculative trading which in the minds of its framer were considered



undesirable. It does not touch the man who stands in the pit and buys and sells for his own account, because over those transactions the Federal Government would have no control. It is not admitted for a moment that the position of this man is in any degree less legitimate or less necessary than the man outside of the exchange, but it is a fact that a large part of the transactions on the exchanges for the account of persons away from the exchange and who used the telegraph, telephone, and mails to execute their trade are the most legitimate hedging transactions, which Members of Congress generally admit to be perfectly legitimate; and yet this bill seeks, if not to prevent such transactions, at least to fetter them so that they could not be commercially carried on.

There are so many features of this proposed bill which, in matter of form, are easily seen to be not simply unwise, but absolutely futile to effect the objects sought by the proposer, that anyone familiar with the business could take up hours in pointing out its defects. I have said enough, I trust, to indicate a few of the features which are objectionable. Under the bill as now drafted a legitimate exchange could live, although the difficulties would be almost insuperable; but is it necessary, in order to eradicate some few minor defects in the system of future trading, to destroy the whole institution?

#### ANTICOTTON-FUTURES BILL.

Mr. ROBINSON. Mr. Speaker, this measure, designed to prohibit interstate communications relative to cotton futures, should be amended so as to include other agricultural products. I am in favor of the bill, but would like to see its terms applicable to all agricultural products. A part compliance with the promises of a platform pledge differs from a total breach of it only in degree. The Democratic platform adopted at Baltimore touching upon this subject is as follows:

We believe in encouraging the development of a modern system of agriculture by a systematic effort to improve the conditions of trade in farm products so as to benefit both the consumers and producers, and as an efficient means to this end we favor the enactment by Congress of legislation that will suppress the pernicious practice of gambling in agricultural products by organized exchanges or others.

It is clear that the platform is directed against dealings in futures in all agricultural products, and that to limit the reform to one product is but a partial compliance. I understand that the reason given by those in charge of the legislation for not embracing all agricultural products in the bill is that such a course might combine opposition to the measure from all the stock exchanges and occasion the defeat of this bill. The argument is not sound. The application of the principle to one agricultural product alone, in my judgment, can not be justified. Those who favor the legislation touching grain and other agricultural products might be induced to oppose the bill for the very reason that it does not embrace the products in which they are most directly concerned. To embrace all agricultural products in one bill would concentrate the support of all the friends of such legislation and force a direct issue that can not be avoided.

During the last Congress we passed almost unanimously through this House a bill very similar to the one under consideration. The fact that its provisions were limited to cotton and that it did not apply to other agricultural products was used at the other end of the Capitol to prevent its consideration and passage there.

The pledge in the Democratic platform will be only partially fulfilled by the passage of this bill. Unless I am assured that it is the purpose of those in charge of the legislation to secure the speedy consideration of the Rubey bill or some other measure including other agricultural products, I shall, if the opportunity can be secured, vote to amend this bill so as to make it respond to the Baltimore platform. In all probability the parliamentary situation will prevent this. I hope the House will insist on considering the bill by Mr. RUBEX, of Missouri, relating to futures in grain.

Mr. Speaker, while I should like very much to see this legislation comply fully with the terms of the Democratic platform and relate to all agricultural products, still I realize the parliamentary situation, and I am in favor of the bill in the form in which we are now considering it, unless an opportunity is afforded of amending the bill, as I have heretofore stated. I desire to call the attention of the member of the committee in charge of the bill to one feature of it which is not satisfactory, and that is that the affidavit which a person desiring to send messages relating to the purchase and sale of cotton intended for future delivery is permitted to file under the provisions of the bill relates solely to messages being sent or to be sent. I desire to suggest to the gentleman in charge of the bill and to others interested whether it be not necessary and advisable to adopt an amendment which will require the statement in the affidavit that the messages that have heretofore been sent—

that is, the messages sent before the affidavit was made—have not violated the provisions of this legislation and did not come within the prohibited messages. In other words, on page 4 of the bill, in line 6, after the word "stating," insert the following words:

That no message relating to any such contract, or offers to contract, as are described in section 2 of this act, has been sent, or caused to be sent, by this affiant, and.

Unless some such amendment be adopted the making of the affidavit may afford a certain means of evasion. To illustrate: A speculator has the bona fide intention at the time he makes the affidavit of complying with its provisions. He does not intend, when he makes the affidavit, to send any message during the next six months relating to a contract for futures. After he makes the affidavit he changes his intention and does in fact send such a message. He is indicted. Would that constitute a false statement in the affidavit? Probably not, because the affidavit could only express the intention of the affiant at the time he was sworn, and his obligation might be regarded as a mere promise and not as a statement of fact. In order to prevent the sending of prohibited messages after the making of the affidavit, subsequent affidavits should embrace the declaration that no prohibited messages have been sent.

This suggestion is submitted in a sincere desire to improve the bill and to make its provisions effective. It is, of course, desirable to relieve persons engaged in legitimate transactions from the obligation of making an affidavit every time they send an interstate message relating to the purchase or sale of the commodities which come within the provisions of the legislation. The affidavit that no such messages will be sent is inadequate. It should also contain the statement of fact that no such messages have been sent. In order to make the affidavit enforceable it should relate to past or present acts and not to future acts alone, which, to say the least, will be difficult of enforcement.

Commencing on line 14 is found the provision:

Any person who knowingly shall make false statements in any affidavit provided for in this act shall be punishable—

And so forth.

Would it constitute a false statement if the person desiring to send messages relating to the purchase or sale of commodities in good faith, intending at the time of the making of the affidavit not to violate his promise, should subsequently alter his plans and send messages that are prohibited? This question can be obviated by inserting, after the word "stating," in line 6, page 4, the following words:

That no message relating to any such contract or offers to contract, as are described in section 2 of this act, has been sent or caused to be sent by this affiant, and.

It is questionable whether or not you can make this promise—and an affidavit that one will not do a thing is nothing more than a promise—whether you can make this promise that one will not send such messages, enforceable under this bill. If we want to relieve those who are engaged in legitimate transactions of inconvenience, it will be necessary to adopt this amendment or some similar amendment; otherwise I do not think the affidavit will accomplish any valuable purpose. I suggest that to the consideration of the gentlemen who are in charge of the bill, and if it be deemed desirable I will offer that amendment in the event opportunity is afforded, which, under the parliamentary status, I can see is quite doubtful.

Mr. MANN. Will the gentleman yield for a question concerning affidavits?

Mr. ROBINSON. Certainly.

Mr. MANN. Does the gentleman think it is within the power of Congress to require an agent of the telegraph company to take an affidavit without charge?

Mr. ROBINSON. I think it is exceedingly doubtful whether Congress or any other legislative body can require any person or agent to perform any service for nothing.

Mr. MANN. And yet it is required under this bill.

Mr. ROBINSON. I observe that.

Mr. MANN. It says he is required to do it; that is all it says. He administers the oath.

Mr. ROBINSON. I am heartily in sympathy with the purpose of this legislation. I believe it is directed against a great evil, but I do think if the affidavit is to be of any value it should be amended so that if the affiant makes a false statement he can be punished for that false statement. If he says he will not send and has no intention at the time he makes that statement of sending prohibited messages you certainly can not punish him for changing his intention after that. That is as clear a statement of the proposition as I can make.

Federal legislation directed against dealings in futures in agricultural products has been a subject of discussion for



almost a quarter of a century. In the past it has been proposed to invoke the taxing power of the Government to prevent it. In the legislation now under consideration the alleged evil is sought to be abolished through the exercise of the power of Congress to regulate interstate and foreign commerce. I am not unmindful of the objections which have been urged against legislation of this character. The principal objections urged are that the bill is unconstitutional, that it is not enforceable, and that it will needlessly interfere with legitimate business.

#### THE LEGISLATION IS CONSTITUTIONAL.

The objection that the bill is unconstitutional does not seem to me to be sustained. The power must exist either in the States, in the exercise of their police powers, or in the Government, in the exercise of its power to control interstate and foreign commerce, to regulate these transactions. If it be conceded, as suggested by the gentleman from New York [Mr. FITZGERALD], that under the decision of the Supreme Court in *Chicago Board of Trade v. Christy* (198 U. S., 236), *Ware & Leland v. Mobile County* (209 U. S., 405), *Clews v. Jamieson* (182 U. S., 461), *Leloup v. Port of Mobile* (127 U. S., 640), it is competent for the State, in the exercise of its police powers, to forbid contracts for the sale of futures, and that such statutes are not in derogation of the power of Congress over interstate and foreign commerce, it still does not preclude, in my judgment, the conclusion that Congress has the power, under the commerce clause, to deal with agencies of interstate communication—the mails, telegraph and telephone lines—and to prevent the transmission of messages relating to such forbidden contracts. I have some doubt as to the constitutionality of the bill, but I shall cheerfully support it and leave the courts to determine that issue.

It is true that no accurate and complete definition of interstate commerce has been made by the courts. They have dealt with the question from the standpoint of the issues involved in the many cases which have been considered. The trend of all the authorities is that the Federal power over interstate commerce is plenary, and that it extends to the means and agencies of interstate commerce. The *Lottery* case and subsequent decisions upholding it, while not conclusive of the constitutionality of the bill, are strongly in favor of it.

The sole question involved in the case cited by the gentleman from New York [Mr. FITZGERALD], *Ware & Leland v. Mobile County* (209 U. S., 405), was whether the statute of Alabama levying a license on persons buying and selling futures for speculation or on commission was an attempt to regulate interstate commerce. The court indicated that while brokers were not common carriers, telegraph companies are. The most that can be said concerning this case is that it holds that the contracts themselves are not interstate commerce. We need not declare that the messages forbidden are commerce. We have plenary power over interstate telegraph and telephone lines as instrumentalities of commerce and can forbid them from transmitting messages of an objectionable character. The Supreme Court has held that the telegraph is an instrument of commerce and that telegraph companies are subject to the regulation of Congress. Why should not the same rule apply to interstate telephone lines?

#### THE MERITS OF THE MEASURE.

The plank in the Baltimore platform declaring for the suppression of the pernicious practice of gambling in agricultural products by organized exchanges or others is to be heartily approved. While the complete compliance with that platform demands that all agricultural products be embraced, still I shall support this bill even though it relates only to cotton. Let me assign briefly some reasons which impel me to support this legislation.

First, the transactions sought to be suppressed have no relation to legitimate business. There is no effort to interfere with the purchase or sale of any commodity for any purpose. The bill does not prevent speculation in actual cotton. If it becomes a law, cotton can still be bought and sold for every purpose for which it may now be bought and sold. The only requirement is that the transactions shall be bona fide sales and purchases and relate only to the actual commodity.

Second. It is immaterial whether the net result of future transactions has been to increase or depress the price of cotton. The governing consideration is that dealings in futures have no legitimate place in modern trade and exert a baneful influence on commerce. Careful students of the subject generally seem to agree to the conclusion that transactions in futures bear a relationship to the price of the actual commodity. The sale of enormous quantities of fictitious cotton may "break the market" and cause a decline in prices, while the purchase at another time of large quantities of futures may cause a rise in price. The fluctuations thus produced are not occasioned by

natural causes. Consequently power is acquired by those who dominate the "market" to amass enormous fortunes by simply buying or selling what they do not own and what, in fact, does not exist.

Third. The argument that the exchanges will suffer or be compelled to radically reform their methods does not convince me that the legislation is bad. I can not believe that to suppress the transactions aimed at in this bill will do more to the exchanges than to restore them to sound and legitimate business control; but if it be true that the measure will prove far-reaching in this regard, I will still support it, and that without hesitation. If exchanges are to be nurseries for gamblers, they must go. Dealings in futures have all the elements of a game of chance, and have come to be designated as gambling by many who pursue them.

Fourth. They are also a means of oppressing the poor. This results both directly and indirectly. Directly when the man of meager means, in the hope of getting rich quick, dissipates his possessions and his earnings in the great vortex of speculation. Indirectly when he who toils in the field observes the product of his labor manipulated by those who sit in rug-spread offices and gamble in the products of his toil.

The demand for this legislation comes primarily from the workers—the farmers and the spinners. Opposition comes only from the exchanges. My voice and my vote are with the workers.

The SPEAKER. The time of the gentleman has expired.

Mr. MADDEN. Mr. Speaker, this bill has some very extraordinary provisions, one of which is that a man who seeks to enter into business transactions for the purchase of cotton is required to say in advance that the transaction is a legitimate and legal one. I do not believe that the Congress of the United States ought to be engaged in any attempt to force anybody to swear in advance that he is going to enter upon a legal transaction. The transaction itself ought to speak for its legality. How can anyone tell whether a transaction is to be legal or not in advance? It seems to me that a man ought to have the right to send a telegram to some other man in the United States and try to buy or offer to sell any kind of commodity, and that he ought not to be required to state when he sends that telegram that he intends to carry out the purpose for which the telegram is sent. Why, we would not be able to transact any kind of business if this policy were pursued in all the business relations in the country. It might just as well be said that a man could not offer to buy a house and lot, and that he could not send a telegram in reference to the purchase of a house and lot unless he stated in advance that what he proposed to do was legitimate and legal. To prosecute a man for failing to make an affidavit that he proposed to enter upon a legitimate business transaction it seems to me to be not a function of the Government of the United States, and I am inclined to believe that Congress could be engaged in a better business than trying to regulate the conduct of the legitimate affairs of the country in any such way as this bill proposes. If a man has sold a million bushels of grain, as my colleague said, to Liverpool, he would not under this bill be allowed to hedge against the rise of the price of that grain between the day it was shipped and the day it was received in Liverpool, and the price might be decidedly different on the day the ship arrived at Liverpool from the price of the grain on the day it began its journey. If this bill is passed we are regulating the exchanges of the United States, preventing those exchanges from making quotations and transacting business, and we are leaving the whole regulation of the commodity and its price to the exchanges of the world outside of America where we have no jurisdiction over them.

I think the people who are interested in raising and selling cotton, if this bill should become a law, would find themselves very much worse off than they are now. I do not believe that the cotton raisers would refuse to enter into combinations to hold their cotton for a higher price. There is nothing in this bill to prevent that. If there is an intention to prevent combinations of any kind to regulate the price, it ought to apply to the cotton raiser just as well as to the cotton buyer or the cotton seller.

Mr. BURLESON. I would like to ask the gentleman a question.

Mr. MADDEN. Certainly.

Mr. BURLESON. I would like to ask the gentleman if he thinks a conspiracy or combination can be entered into between 5,000,000 people and be made effective?

Mr. MADDEN. I do not understand that there are 5,000,000 people engaged in the raising of cotton.

Mr. BURLESON. There are more than 5,000,000 people engaged in the cultivation of cotton.



Mr. MADDEN. The people who control cotton in the South, or wherever it is grown, have organizations through which they assemble their cotton in warehouses and hold it for a time when they are assured that they can sell it for a higher price than they could sell it for if it was not so held.

Mr. BURLESON. And I want to assure the gentleman that never has one of those organizations or combinations proven effective.

Mr. FOSTER rose.

The SPEAKER. The gentleman from Illinois [Mr. FOSTER] is recognized for five minutes.

Mr. FOSTER. Mr. Speaker, I believe that the people generally should and desire to encourage legitimate business of every kind. I see no objection to any man who owns and desires to sell a million bushels of corn or a thousand bales of cotton to be delivered some time in the future at a certain price. I see no objection to a man who desires to buy a million bushels of grain or a thousand bales of cotton or any commodity and having it delivered at a future time, but I do not believe it is encouraging the legitimate business of the country to go onto the board of trade and put up your money and bet whether cotton will go up 2 cents a pound or down 2 cents a pound in the next three months. I do not believe that it encourages the grain raisers of this country and I do not believe that it helps the consumer of bread in this country for men to go on the board of trade in Chicago, New York, or any other city and bet their money that grain will go up or down, as the case may be, in the next 30 days. These men have no intention of delivering the property, but really bet as to what the price will be. And so I think that this bill which is under consideration at this time permits legitimate transaction in the buying and selling of cotton, but will have a good effect in stopping gambling on boards of trade.

But I would like to see this bill go further and include other farm products, so that there might not be that gambling in those commodities, too. You take the traders in the city, those who speculate on the board of trade, and they can not always speculate among themselves, because if they do it is only trading dollars. They must reach out into the country and gather in what they call the "lambs" and shear them and get a crop of "wool" to replenish the treasury of each and every one of them. And so we see all over this country encouragement coming from these traders, holding out great inducements and issuing market letters as to what the market is likely to do. If he is trading on the board of trade, if he is what is called a "bull," he is always saying that the price in 30 days is going to be higher, and the proper thing to do to make money is to buy wheat or some other commodity, as the case may be. If he is a bear, he believes the price will go down.

I do not know, but I suppose between the bulls and bears on the board of trade there is about as much money made on one side as there is on the other. Sometimes I have thought that the bulls would "bull" the price for a little while, and then they would get what they could from the bears, and the lambs would think the prices were going up and they could make a lot of money, and they would put up their cash and the price would go down, and the "lambs" out in the country would get "sheared."

So let us have honest, legitimate trading. Let us encourage honest trading, but let us stop the gambling in cotton, wheat, oats, or any other farm product. [Applause.]

Mr. SIMS. Mr. Speaker, the object and purpose of the bill now under consideration is to mitigate and minimize the evils growing out of what is commonly called and known as dealing in "cotton futures."

It is claimed by the opponents of the bill that the dealing in cotton for future delivery is a legitimate and necessary business, and that to prevent the buying and selling of cotton for future delivery will be an irreparable injury to both the producer and manufacturer of cotton. As thus stated, I am wholly in accord with the position of the opponents of this bill. I will not if I know it support any bill that has for its object and purpose the prevention of sales and purchases of cotton for future delivery. I think speculation by way of buying and selling any product, whether agricultural or manufactured, whether for immediate consumption or for the purpose of holding the product for a time, hoping thereby to make a profit by an advance in price, is entirely legitimate and a benefit to producer and consumer alike.

The cotton crop of the United States matures and is gathered almost entirely during the months of September, October, and November, while it takes the whole 12 months of the year to manufacture the cotton thus harvested in 3 months. If it was wholly unprofitable for anyone to buy cotton except the manufacturer, he would have the cotton producer at his mercy.

Cotton, as a farm product, differs from almost all other crops grown on the farm. It is the only great crop produced that has

no consumptive farm value. Cotton, without going through some form of manufacture, which the grower can not, as a rule, give it, can not be used by the grower for any purpose whatever. Corn, wheat, rye, oats, hay, and many other farm products can be used by the grower profitably on the farm where such articles are produced, without going through any stage of manufacture whatever, but cotton, without passing through some form of manufacture, which the farmer is not prepared to give it, can not be used for any purpose by the producer.

The great market effect of this condition with respect to cotton must not be overlooked. By reason of this fact the entire crop of cotton is a weight upon the money supply of the country, as every bale must be sold in order that the producer may realize any benefit from it whatever.

This is not the case with wheat, rye, oats, corn, or hay. While I have not examined the statistics and can not, of course, claim absolute accuracy, I am confident that if cotton is excluded at least 50 per cent of all other farm products can be consumed profitably without going through any stage of manufacture that is not or can not be furnished by the producer. Therefore it must follow that cotton is twice as sensitive to market conditions, both natural and artificial, as are the other products of the farm.

The corn grown and used by the farmer on his farm is never in any sense an actual weight upon the market. He does not have to sell it in order to utilize its value to him. This is true with all products of the farm which are consumed in whole or in part without passing through any stage of manufacture. But if a farmer grows only one bale of cotton on a 500-acre farm, he must sell it in order to realize any benefit from it. Cotton thus having no home farm consumptive uses is wholly an article of active trade and commerce and is thus necessarily affected by supply and demand, interest rates, insurance, commissions, and trade charges to an extent exceeding that of any of the other great crops of the country by at least 100 per cent. Therefore the cotton producer must necessarily be much more a victim to the evils of market manipulation of his crop than is possible for the growers of the other great staple crops of this country. While this is true, I do not want to be understood as being opposed to any legislation looking to the eradication of the evils of future dealing in any and all farm products. I am only pointing out to the House why I think it is more imperative to pass legislation of this kind with reference to cotton as a separate and distinct measure. I shall join in like efforts as to grain and other farm products.

Mr. Speaker, as I have said before, I have no objection to the buying of cotton to be delivered in the future. I think it ought to be encouraged. I am neither a cotton grower nor spinner; but I find myself passing by a farm and see 10 bales of cotton on that farm. I ask the owner, "Are you going to sell that cotton?" He tells me no. Says he does not need the money, and that he is going to hold his cotton for six months; that he believes it will be worth more money then than at the time I offer to purchase. That farmer by his action becomes an investor and holds his cotton off the market at a time when it might aid in depressing the price. He is a benefactor to all other farmers who are not able to hold their cotton, and who are thus benefited by the action of their brother producer, although this farmer by holding his cotton may at the end be the six months have to sell for less than he could have realized by selling to me.

Now, suppose this farmer instead of holding his cotton had dumped it on the market at that time; he would have aided to that extent the declining prices then prevailing, and by so doing he would have injured every other farmer in the United States who was compelled to sell his cotton. But this farmer, being out of debt and having money ahead, can sell his 10 bales of spot cotton and buy 10 bales for six months' future delivery on a market in part depressed by his inaction, and possibly make a profit out of his deal for himself on his futures. But his unfortunate brother farmers who could not hold were injured by him, but can not in any way share in the advance in futures, as they are not, as a rule, able to thus speculate even if so inclined. But the opponents of this bill advise all farmers to sell their actual farm-grown cotton, and thus depress the market for both spots and futures, and instead of holding farm-grown cotton buy Wall Street cotton and hold it.

Mr. Speaker, it is this Wall Street cotton that this bill is inimical to, and it will in no wise affect adversely the farm-grown cotton.

Now, Mr. Speaker, let us suppose that the farmer I have mentioned sells his 10 bales of cotton to me. I am neither producer nor manufacturer. I am a speculator pure and simple. I think cotton will advance, and, so believing, I buy this cotton



and pay the farmer \$500 for it. I receive it, place it in storage, and hold it six months. What is the market effect of my action? I take 10 bales of cotton that would have been sold on the market out of the channels of trade, and thus make the supply of actual spot cotton pressing for sale less to that extent. The logical effect on the spot-cotton market is beneficial, and not only to the extent of the value of the 10 bales thus removed from sale, but upon every bale in all markets of the world. So I, although simply a speculator, have been a benefactor to every seller of spot cotton the world over. And at the end of the six months I may sell the 10 bales for a profit exceeding the interest on the money invested and be benefited by this pure speculative transaction. This was real, legitimate speculation and consisted in buying real, farm-grown cotton and holding it off the market at a time when the natural and unavoidable conditions were such that millions of bales of cotton were being pressed for sale in excess of the demand of the spinners or their ability to purchase. This bill will not prevent nor is it intended to prevent any such speculation.

Now, let us take the other side of the question. The Wall Street cotton grower says: "Do not buy that 10 bales of farm-grown cotton; you will have to pay \$500 for it and be out of the use of that \$500 for six months. But, instead, buy 10 bales of Wall Street cotton for six months' future delivery from me and I will only require you to put up as margin \$2 per bale, or only \$20 on the 10 bales instead of the \$500 you will have to pay the farmer for his farm-grown cotton, and you will have \$480 left of the \$500 which you can invest in any other way that you desire; but if you desire, for the \$500 you will have to pay for the 10 bales to the farmer, I will sell you 250 bales of Wall Street cotton for six months' future delivery." The Wall Street advocate goes on to argue with me that he will never call on me for anything more than the \$500 unless cotton for future delivery should decline to an amount exceeding the \$500, or exceeding \$2 per bale, and even if it should I am told I will be called on for only \$2 more per bale, and in no conceivable circumstances will I ever be called on to put up the \$50 per bale I have to pay the farmer. The Wall Street cotton producer explains to me that if spot cotton goes up in six months so that I will make a profit on my \$500 investment, being on only 10 bales, that my profits on 250 bales of futures will be twenty-five times as great. He further explains to me that if the market goes against me on my future deal that I can always sell out and stop my losses; that if I held spot cotton that it could not be used by anyone but a manufacturer; that if my 10 bales of farm-grown cotton begins to decline that I can not sell it at all, but will have to hold it until the manufacturers of spot cotton use up their supplies on hand. But that if I will buy his Wall Street grown cotton for future delivery, that inasmuch as his cotton is never used by spinners or manufacturers—in fact is never used at all for any purpose that farm-grown cotton can be used—that this Wall Street cotton can be sold at any time on five minutes' notice by telegraph or telephone or by any other means of communication; that it does not have to be inspected, weighed, or sampled; that in fact nothing has to be done that would have to be done if farm-grown cotton was being dealt in.

Mr. Speaker, the speculative spirit, get-rich-quick spirit, or, to be plain and candid and to use a term we all understand, the gambling spirit, seems to be inherent in all of us, and nine times out of ten the real speculator in actual farm products, by such arguments as I have detailed above, can be changed into a "gambler" in farm products, or rather a gambler in the name of farm products.

Mr. Speaker, if the evil of gambling in the name of farm products was confined to the individuals who gamble, barring the moral effects upon the public, we as a legislative body might excuse ourselves from any effort to prevent it. But if the evil effects of this character of transaction reaches out and takes in hundreds of thousands, yea millions, of producing farmers who are in no way parties to these transactions, I deem it our highest duty to exert our utmost efforts within constitutional limitations to abate the evil or to destroy it, root and branch, if we can do so. Therefore the next step, to proceed in logical order, is to ascertain whether or not the selling of cotton for future delivery, as conducted on the cotton exchanges in New York and New Orleans, is beneficial or injurious to the producers and manufacturers of cotton in this country.

It is impossible to sell more cotton for future delivery than is purchased for future delivery. Such a statement needs no demonstration; it is axiomatic. So, if these transactions were natural and conditions were equal and no law of economics violated, the effect of each sale would be neutralized by the effect of the purchase which made the sale possible. If these

pretended contracts were intended to be executed by actual receipt and delivery of the cotton specified under terms and conditions equally fair and just to both seller and purchaser, their effect on the market would be nil. The future market, on the face of it, is always exactly balanced as the purchases and sales are and must be exactly equal in pounds, bales, and prices.

If delivery of each and every bale was actually intended and actually followed, it would make no sort of difference how often the same contract was transferred from one party to another, it could not and would not have any unnatural effect on the market any more than for a stock raiser in April to make a written contract to sell to a packer 100 head of beef steers to be delivered in the following December. This contract might be passed from one party to another a thousand times during that period of time and it would have no greater effect than if the same cattle had been sold and delivered a thousand times. Nor will a warehouse receipt for 1,000 bales of cotton have any unnatural effect on the cotton market if transferred a hundred times by way of sale and delivery, simply because the purchaser can look at the warehouse receipt and from it see just what kind of cotton is covered by the receipt, how many bales middling and weight of each, how many bales above middling and weight of each, how many bales below middling and weight of each. The warehouse receipt is simply an evidence of title to existing property. The contract is to deliver by the seller to the buyer 100 bales of cotton in the future, and although the cotton had not been planted, if both parties intended in good faith to execute the contract, and if, in fact, execution of such contract was the rule and not the rarest kind of an exception, no unnatural or injurious effects would follow. Mr. Speaker, if all contracts for future services or future deliveries of property were as often violated, or, to state it in another way, were as rarely executed as are contracts for future delivery of cotton made on the cotton exchanges, commerce and trade would be destroyed.

It is true that the margin of \$2 per bale put up by buyer and seller of futures is forfeited and retained as damages to anyone who refuses to increase his margin when called on to do so; but if all kinds of contracts in business were as often broken as are those in cotton futures the claims for damages resulting therefrom would not so far compensate for such breaches of contracts as to permit the necessary business relations of commerce to continue.

Mr. Speaker, these contracts for cotton futures are made on the basis of middling cotton, so far as quality is concerned, and a bale is arbitrarily fixed at 500 pounds. A minimum contract is for 100 bales, or 50,000 pounds, and is made subject to the seller's option, who can deliver to the holder of the contract in month of delivery 50,000 pounds of middling cotton or any other kind of cotton other than middling deliverable on contracts on the exchange where the contract is made. There are now about 20 grades of cotton, as I now recall the facts, that are deliverable on contracts in the New York Cotton Exchange, so that the seller can deliver to the buyer the whole number of bales of any one kind of cotton deliverable under his contract, or he can deliver some of all grades deliverable. All the seller is compelled to do is to deliver 100 bales of cotton subject to delivery under his contract.

But if the cotton is above middling the seller does not have to deliver 50,000 pounds, but only enough pounds to equal in value 50,000 pounds of middling cotton. He may also deliver the whole 100 bales of cotton grading below middling, but in doing so he must deliver more than 50,000 pounds. He must deliver enough of this lower grade to be equal in value to 50,000 pounds of middling cotton. It would seem, in all fairness to the purchaser of one of these contracts, that he should get the actual market value of his 50,000 pounds of middling cotton at the time of the delivery provided for in the contract where other than middling is delivered, so that he would at least have as much cotton in market value as his contract called for in specific terms, so that the buyer could sell the cotton at least for as much as he was forced to give for it under the terms of the contract. But, Mr. Speaker, under the rules of the New York cotton exchange this is not the case.

Under the seller's option privilege he naturally will always deliver the grades of cotton least desirable to hold and in least demand at the time of delivery. Instead of determining the actual market value of the grades delivered other than middling, under the rules of the New York Exchange, the seller is permitted to deliver at a price fixed by a committee of the exchange, it may be 6, 8, or 10 months prior to the date when the actual delivery has to be made. This is called the system of fixed differences. If the differences were made by the com-



mittee in accordance with actual market conditions existing at the time the committee acted these variations may not remain the same for one month. If the revision committee fixed these differences in the month of September and a great tropical storm, as is often the case, visits the Gulf States, it will cause so great a damage to the quality of the cotton in the fields as to cause a much larger per cent of the crop to run below middling than was the case when the differences were fixed as to cause a wide decline in all grades below the contract grade by reason of the great increase of low-grade cotton. In such a case the seller would naturally deliver the lower grades, as he could get them at a lower price compared to middling than is provided in his contract, so that if the buyer should on the day of delivery sell this low-grade cotton he would suffer a loss. Naturally those who want farm-grown cotton for manufacturing purposes will steer clear of any such market as the New York Cotton Exchange provides. The rules of the New York Cotton Exchange makes that market attractive to any and all kinds of overvalued grades of cotton for purposes of delivery on contracts.

The small cash margin required to be put up by buyers and sellers of cotton on the New York and New Orleans exchanges for future delivery is conclusive proof that actual delivery is not expected. If middling cotton for a month, six months ahead of month of sale is as low as 10 cents per pound, the value of a 500-pound bale would be \$50, and \$2 cash margin would be only 4 per cent of the value of the cotton. That 4 per cent cash margin is the only guaranty the member of the cotton exchange who buys or sells the cotton has that the seller will deliver or that the purchaser will accept the delivery and pay for the cotton except the solvency of the parties to the transaction. Anybody, by mail, telegraph, or otherwise, under ordinary conditions can trade in futures by putting up the cash margin required, without any reference to his solvency. It is the rule if the market for the month dealt in is going down the purchaser is called on to increase his margin by putting up more cash. This call is usually made before his margin is exhausted, and if the purchaser does not increase his cash margin the member of the exchange who executed the order will sell out the contract before the cash margin is entirely exhausted, and the new purchaser takes the place of the one who was sold out on account of failure to respond in cash margin when called to do so.

Now, Mr. Speaker, it is not an unusual thing for the price of cotton futures to fluctuate as much as a dollar a bale in one hour's time. In fact, on the opening of the exchange at 10 a. m. the price of futures often opens a dollar higher or lower per bale than they closed the day before. Now, would any safe, conservative banker loan money on actual cotton within 4 per cent of its cash value, with the borrower 500 or 1,000 miles away, and depend on the borrower protecting the bank by telegraph or telephone in case of violent fluctuations in the price of spot cotton? This is exactly what the member of the exchange does for the dealer in cotton futures.

It is clear that if any man who was buying cotton from a man whose solvency he did know and had to rely on a deposit in money in some bank to guarantee the actual delivery of the spot cotton six months ahead of the date of the contract he would require a much larger deposit in cash than \$2 per bale. It must be clear to anyone that from the fact that the contract for future delivery of cotton is wholly at the option of the seller, and naturally operates to his advantage, that it is just as certain and as inevitable that these contracts are to the disadvantage of the purchasers of cotton for future delivery who want actual farm-grown cotton for purposes of manufacture.

Mr. Speaker, however we may view these contracts for future delivery of cotton under the existing rules of the New York and New Orleans exchanges, the conclusion is forced upon us that at least 90 per cent of all who sell these contracts have no purpose or desire to deliver actual cotton, even as per the advantageous terms of the New York contract; and it is equally clear that even a greater percentage of all persons who buy these contracts for future delivery of cotton have no purpose or desire to accept delivery of actual cotton as provided for in their contracts. Therefore it must follow that at least 90 per cent of all sales and purchases of cotton for future delivery in these exchanges are not made with any expectation or desire that actual cotton will be delivered and accepted in execution of said contracts. The hope and purpose of both parties to these trades is that the fluctuations in the price of futures will be in his direction, and that he may buy in or sell out his contract so as to make a profit before the month arrives in which the contract could be complied with by the terms of same.

The purchaser's expectation is to make a profit by getting the money put up as a margin by the seller, and a seller expects to make money by getting the margin, or part of it, put

up by the purchaser. He has no thought of acquiring actual cotton and delivering it on his contract, but only hopes that the quotations for the future month he has dealt in will so decline as to enable him to buy in his contract for less than he sold it, and thus make a profit, which is paid out of the cash margin put up by the unfortunate purchaser. No wealth is created nor was any expected to be created. Such dealings are on all fours with the card table—the money of the players changes hands during the game and some players will have more money than they commenced with, but others will have exactly that much less.

Future dealings settled by the margin money put up are nothing more than gambling transactions as between the parties to them, but as to the growers and manufacturers of cotton they are much worse than the gaming table. The card gambler never injures anyone not a party to the game, but the cotton-future gambler affects adversely thousands and millions of cotton growers who are not parties to these future contracts.

The cotton exchanges open at 10 o'clock in the morning. Ten o'clock in the morning at New York means 9 o'clock in much the greater part of the cotton-growing belt of the United States. The moment the first price is made in futures in New York it is flashed over the wires to every spot-cotton dealer in the United States, and these quotations continue to be sent out every few minutes during the day; that is, until 3 o'clock p. m., when the exchanges close. If futures open firm and higher, purchasers of spot cotton are active in making purchases of farmers or anyone else who has actual cotton to sell. If the quotations for futures are considerably higher, the purchaser of spots may and often does advance the price he is paying for actual cotton.

But, on the other hand, if futures open lower and dull the purchaser of spots reduces his prices and is indifferent as to buying even at the reduced prices. As a rule cotton is delivered at country shipping points in the forenoon and usually sold before 1 o'clock p. m., and the market for spots is controlled absolutely by the sales of futures, as no spot quotations are posted by the cotton exchanges until 2 o'clock p. m., after the future market has been open for four hours and only one hour before the closing of the exchanges.

So, Mr. Speaker, it must be plain to anyone who makes an investigation of this subject that while the cotton-future gambler in his dealing has his eyes only on the cash stakes put up in the name of margins, his gambling in the name of cotton does have a very material effect on the prices of actual spot cotton in the hands of the grower or the manufacturer.

If no one but the professional cotton gamblers would patronize those exchanges they would largely cease to exist, but on account of the inherent disposition of man to speculate and gamble there seems to be an inexhaustible supply of men who think they can make money in future dealing and thus get rich quick and spend the rest of their days in easy living, so that a large crop of "lambs" are thus produced for fleecing by the professionals. These lambs are the innocent cause of all the evils growing out of future dealings in farm products.

At times when there are prospects of a short crop the facts are exaggerated, as crop-damage stories nearly always are, and these lambs begin to buy cotton futures from the professionals in New York and New Orleans. Nobody but a professional will sell to them. A lamb, and especially one in the South, never sells cotton futures. He always buys. He lives where he hears the tales of woe from the farmers morning, noon, and night. When he goes to make his purchases he never purchases only a few bales so as he can margin his trade heavily. He never thinks that futures can go down between the time of his purchase and the month of delivery. He usually thinks he knows all about cotton because he lives in the South, and he thinks these New York people, who have no knowledge of the crop conditions, with which he is familiar, are at a great disadvantage in dealing with him—a real, genuine cotton expert. So he goes in heavily and buys all he has the money to margin. He reasons there is no use in making two bites of a cherry. He will get rich in his first plunge and in a single trade. After the crop of lambs are sufficiently large on the bull side, the professionals in Wall Street, who like good country mutton, decide it is time to "make a killing." So some fine morning a big professional who has been selling cotton right along to these "sure-thing" lambs gets up and offers to sell 10,000 bales in any month. He has been in the public prints before—he is a Theodore Price or a Dan Sully. No other professional wants it. No bid is offered. This bit of market gossip is flashed over the wires to ever cotton broker and dealer and bucket shop in the land.

The effect is electrical. Futures begin to decline rapidly, margins are called, and the lambs become panicky, and orders

burn up the wires to sell cotton futures at the market, down goes the price, and when it has sufficiently declined the professionals sell back to the poor deluded lambs the contracts they had purchased from them, and thus scoop in all the margin money the poor little bulls had put up, and then immediately the market steadies, and the professionals, having made "their killing," retire with no cotton or cotton contracts to bother them, but in possession of all the money put up as margins for cotton they sold, that was never intended to be delivered when sold. The crop-damage reports may have been real, and may get worse, but it did not prevent the manipulation of the market by the professionals, to the loss and ruin of new, inexperienced men, with a little money in hand, who think they can make many hundred per cent by dealing in cotton futures. Almost hundreds of cases have occurred where young men of good family and good character have been so crazed with the idea of getting rich quick that they have used funds not their own, and have become criminals and involved honored and respected families in financial ruin in order to save a son from a felon's cell. All laws are made for the protection of society, and it seems to me that it is our duty to protect the young men of our country from such temptation by refusing the use of the mails and the facilities of interstate commerce in aid of gambling transactions in farm products, which is so injurious to the producer and so demoralizing to the young men of our land and no benefit to any legitimate industry entitled to the equal protection of the laws.

Mr. OLMSTED. Mr. Speaker, is all the debate in favor of the bill?

The SPEAKER. The Chair did not pay much attention to that, as to whether gentlemen were in favor of the bill or against it.

Mr. OLMSTED. Everybody who has spoken seems to be in favor of the bill. I am opposed to it.

The SPEAKER. The Chair will recognize the gentleman for two minutes.

Mr. OLMSTED. That is rather short.

The SPEAKER. That is all the time there is left.

Mr. OLMSTED. Then I will yield my time.

Mr. HEFLIN rose.

The SPEAKER. There are only two minutes remaining. The Chair will recognize the gentleman from Alabama [Mr. HEFLIN] for two minutes.

Mr. HEFLIN. Mr. Speaker, It is really refreshing to those of us who come from the cotton belt, that section that produces two-thirds of the cotton of the world, to hear these gentlemen protest against our efforts to regulate the cotton exchanges, because they say that such regulation will injure the people that we represent.

The farmers of the cotton belt are almost unanimous in their demand for this legislation; but as I listened to the speeches made by the gentlemen who come from the exchange centers I was uneasy lest they convince some of you that these exchanges were instituted purely and wholly, singly and solely, for the benefit of the cotton producers. [Laughter and applause.] The cotton producer simply wants cotton used to fill contracts that name cotton. Men handling contracts that name cotton must call on the man who has real cotton to fill cotton contracts. Is there anything unfair about that? The exchange must become a real cotton exchange, where real buyers and real sellers transact legitimate business. Then the law of supply and demand will govern, as it should, an open, legitimate, and competitive market. That is all we want, gentlemen; and in closing this debate I ask you to vote for this meritorious measure. [Applause.]

Mr. BEALL of Texas. Mr. Speaker, I ask unanimous consent to correct two typographical errors in the bill: First, on page 4, line 21, to substitute the word "of" in place of the word "or."

The SPEAKER. The Clerk will report the request.

The Clerk read as follows:

Page 4, line 21, substitute the word "of" in place of the word "or."

Mr. SABATH. Mr. Speaker, have we reached section 4?

Mr. MANN. No; we are making a request for unanimous consent.

The SPEAKER. The gentleman from Texas asks unanimous consent to make the typographical correction which has been stated. Is there objection?

Mr. FITZGERALD. Reserving the right to object, I wish to ask the gentleman a question. Under the operation of the rule under which this bill is being considered it is impossible even for the friends of the bill to perfect it without unanimous consent. Is not that true?

Mr. BEALL of Texas. Unfortunately it is true, because the gentleman from New York [Mr. FITZGERALD] consumed a very considerable part of the time.

Mr. FITZGERALD. I consumed 10 minutes.

The SPEAKER. If there be no objection, this amendment will be agreed to.

There was no objection.

Mr. BEALL of Texas. Then, on page 6, in line 16, I ask unanimous consent to strike out the word "my" and insert the word "by."

The SPEAKER. The Clerk will report the request.

The Clerk read as follows:

Page 6, line 16, strike out "my" and insert "by."

Mr. MANN. Mr. Speaker, there are two prints of this bill. I should like to inquire where this is in the print of the bill which I have.

Mr. BEALL of Texas. Near the end of section 6. "Or at which it is caused to be delivered my mail," should be "by mail." I am not sure that the mistake occurs in the original bill, but it does occur in the printed copy.

Mr. COOPER. Mr. Speaker, I desire to ask the gentleman from Texas if the word "in," in line 19, page 6, ought not to be stricken out and the word "is" inserted. That is a typographical error, is it not?

Mr. MANN. What is the language? There are two prints of the bill.

Mr. COOPER. It reads:

That the Postmaster General, upon evidence satisfactory to himself that any person in sending through the mails of the United States—

The SPEAKER. The Chair has not yet submitted the previous request. If there be no objection, the word "my" will be changed to the word "by" in the place suggested by the gentleman from Texas [Mr. BEALL].

There was no objection.

Mr. FITZGERALD. Mr. Speaker, is debate ended on this bill?

The SPEAKER. Debate is ended; yes.

Mr. FITZGERALD. I ask for the regular order.

The SPEAKER. The regular order is on the engrossment and third reading of this bill.

Mr. BEALL of Texas. I ask unanimous consent that the word "in" be stricken out and the word "is" substituted at the commencement of section 7.

The SPEAKER. Is there objection?

There was no objection.

Mr. COOPER. In line 19, page 6, there is a typographical error—"in" for "is."

Mr. FITZGERALD. I shall not agree that it is a typographical error. I object. It is manifest that we can not properly consider this bill to-day.

The SPEAKER. Does the gentleman from New York object?

Mr. FITZGERALD. I object.

Mr. ROBINSON. Mr. Speaker, I desire to submit a request that I be permitted to offer an amendment, of which I have heretofore spoken.

The SPEAKER. The Clerk will first report the amendment offered by the gentleman from Arkansas [Mr. ROBINSON].

The Clerk read as follows:

Insert on page 4, line 6, after the word—

Mr. MANN. I object to the reading of the amendment, and call for the regular order.

Mr. SABATH. Mr. Speaker, I ask unanimous consent to offer an amendment. I did not know that the time had expired.

Mr. BURLESON. We would like to know what the amendment is.

Mr. MANN. Mr. Speaker, I call for the regular order.

The SPEAKER. The regular order is the engrossment and third reading of the bill.

The question was taken, and the bill as amended was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question now is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. FITZGERALD and Mr. MANN) there were—95 ayes and 25 noes.

So the bill was passed.

On motion of Mr. BEALL of Texas, a motion to reconsider the vote whereby the bill was passed was laid on the table.

WITHDRAWAL OF PAPERS.

Mr. BOOHER, by unanimous consent, was given leave to withdraw from the files of the House, without leaving copies, papers



in the case of John S. Swanke, invalid-pension case, Sixtieth Congress, no adverse report having been made thereon.

#### EXTENSION OF REMARKS.

Mr. DICKSON of Mississippi. Mr. Speaker, I ask unanimous consent to extend my remarks on the cotton bill.

The SPEAKER. The gentleman from Mississippi asks unanimous consent to extend his remarks on the cotton bill. Is there objection?

There was no objection.

Mr. ROBINSON. Mr. Speaker, I ask unanimous consent that all gentlemen who have spoken on the cotton bill may have five legislative days in which to extend their remarks.

The SPEAKER. The gentleman from Arkansas asks unanimous consent that all gentlemen who have spoken on the bill may have five legislative days in which to extend their remarks. Is there objection?

There was no objection.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed the following order:

*Ordered*, That the Senate, sitting for the trial of impeachment of Robert W. Archbald, adjourn until Friday, the 19th instant, at 12:30 o'clock in the afternoon.

#### ENROLLED BILL SIGNED.

Mr. CRAVENS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bill of the following title, when the Speaker signed the same:

H. R. 20501. An act to authorize the Secretary of the Treasury to exchange the site heretofore acquired for a United States immigration station at Baltimore, Md., for another suitable site, and to pay, if necessary, out of the appropriation heretofore made for said immigration station, an additional sum in accomplishing such exchange; or to sell the present site, the money procured from such sale to revert to the appropriation made for said immigration station, and to purchase another site in lieu thereof.

#### INTERNAL-REVENUE ACT RELATING TO MANUFACTURE OF CIGARS.

Mr. PETERS. Mr. Speaker, I ask unanimous consent that the House consider the bill (H. R. 25741) amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909.

The Clerk began the reading of the bill.

Mr. MANN. Mr. Speaker, I make the point of order that the bill can not be read in the House. The gentleman should make a motion to go into Committee of the Whole House on the state of the Union.

The SPEAKER. The point of order is well taken.

Mr. PETERS. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union, for the consideration of the bill (H. R. 25741) amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909.

The question was taken, and the motion was agreed to; accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. BYRNS of Tennessee in the chair.

The Clerk began the reading of the bill.

Mr. PETERS. Mr. Chairman, I ask unanimous consent to dispense with the first reading of the bill.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to dispense with the first reading of the bill.

Mr. MANN. Mr. Chairman, this is a very short bill, and I think it ought to be read.

The CHAIRMAN. Objection is heard and the Clerk will proceed.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909, be, and the same is hereby, amended to read as follows:

"Sec. 3392. All cigars weighing more than three pounds per 1,000 shall be packed in boxes not before used for that purpose containing, respectively, 5, 10, 12, 13, 25, 50, 100, 200, 250, or 500 cigars each; and every person who sells, or offers for sale, or delivers, or offers to deliver, any cigars in any other form than in new boxes as above described, or who packs in any box any cigars in excess of or less than the number provided by law to be put in each box, respectively, or who falsely brands any box, or affixes a stamp on any box denoting a less amount of tax than that required by law, shall be fined for each offense not more than \$1,000, and be imprisoned not more than two years: *Provided*, That nothing in this section shall be construed as preventing the sale of cigars at retail by retail dealers from boxes packed, stamped, and branded in the manner prescribed by law: *Provided further*, That each employee of a manufacturer of cigars shall be permitted to use, for personal consumption and for experimental purposes, not to exceed 21 cigars per week without the manufacturer of cigars being required to pack the same in boxes or to stamp or pay any internal-revenue tax thereon, such exemption to be allowed under such rules and regulations as the Secretary of the

Treasury may prescribe: *And provided further*, That every manufacturer of cigarettes shall put up all the cigarettes that he manufactures or has manufactured for him and sells or removes for consumption or use in packages or parcels containing 5, 8, 10, 15, 20, 50, or 100 cigarettes each, and shall securely affix to each of said packages or parcels a suitable stamp denoting the tax thereon, and shall properly cancel the same prior to such sale or removal for consumption or use, under such regulations as the Commissioner of Internal Revenue shall prescribe; and all cigarettes imported from a foreign country shall be packed, stamped, and the stamps canceled in like manner, in addition to the import stamp indicating inspection of the customhouse before they are withdrawn therefrom."

Mr. PETERS. Mr. Chairman, the provision of this act which is new is contained on page 2 of the bill, in lines 14 to 22, inclusive, and reads as follows:

*Provided further*, That each employee of a manufacturer of cigars shall be permitted to use, for personal consumption and for experimental purposes, not to exceed 21 cigars per week without the manufacturer of cigars being required to pack the same in boxes or to stamp or pay any internal-revenue tax thereon, such exemption to be allowed under such rules and regulations as the Secretary of the Treasury may prescribe.

Mr. Chairman, it has been the custom since cigars were first made in this country that the operatives should be allowed a certain number of cigars for their own use. Up until last September they have been allowed to take from the tobacco which they have given them to roll the cigars a certain amount to experiment with, to find out just the manner in which the cigars should be rolled which they were to make. They have also determined by smoking the tobacco whether it is of a proper strength and quality to use in the grade of cigars they were to make. The inexperienced employees were also taught how to roll cigars from this tobacco. The cigars allowed the operatives were not put in stamped boxes and no tax was paid upon them.

It has grown up as a custom that the factories will allow their operatives to take out a certain number of cigars—about three each day and six on Saturdays. This was permitted because in certain factories there were rules prohibiting smoking, either for hygienic reasons or because women and children were employed there. The use of "smokers" had been the universal custom from the time the industry started until last September, when the Treasury Department made a ruling that no "smokers" should be allowed. There was a ruling made September 1, 1911, and a later one on September 15, and one on December 30 of the same year—printed in the hearings—all having the same object in view, to curtail the use of "smokers." Immediately the operatives began to feel that they had been deprived of what custom had given them, which they had come to regard as a part of their daily wage. Therefore bills were introduced by several Members having in view extending to the operatives by statute the privilege which had been enjoyed by them all along under the practice of the Internal Revenue Department up to last year.

Your Committee on Ways and Means gave an exhaustive hearing to the subject, and there appeared before it the representatives of the employees from many of our cities, and some of the manufacturers. Among those who addressed the committee were Mr. Henry Abrahams, president of the Massachusetts Central Labor Union, of Boston, Mass., Mr. Thomas F. Tracy, second vice president of the Cigar Maker's International Union of Boston, Mass., and representatives of the cigar makers of New York, Florida, and Connecticut. It was agreed upon by all parties, by both the manufacturers and the employees, that this custom was so well established that both parties desired to see it continued. The only point which was made against it was made by the Commissioner of Internal Revenue, who objected to it because of the fear that continuing this exemption would enable a certain amount of tobacco to be taken out without paying a duty upon it; but after carefully considering the evidence your committee felt justified in reporting the bill which we now have before us. It was felt that the privilege had been in existence so long that its legal recognition was no more than fair to men and to the manufacturers, and there was no reason to suppose that it would be abused by men of such high integrity as are found among those engaged in the manufacture of cigars.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. PETERS. Certainly.

Mr. MOORE of Pennsylvania. Mr. Chairman, will the gentleman explain what the provision beginning on line 22, page 2, relating to cigarettes and the method of packing them has to do with the legitimatizing of the custom of employees having an allowance of 21 cigars a week?

Mr. PETERS. That is in the law at the present time and there is no change made in the section to which the gentleman refers by this bill. The only change made is embodied in the provision commencing "*Provided further*," on line 14, and ending with the word "prescribe," on line 22. The provisions to which the gentleman refers are in the present law.

Mr. MOORE of Pennsylvania. The only change contemplated by the committee in the bill is the legitimatizing of the custom of making this allowance of cigars to the employee?

Mr. PETERS. That is exactly it.

Mr. TILSON. Mr. Chairman, will the gentleman yield?

Mr. PETERS. Certainly.

Mr. TILSON. May I ask a general question? In this hearing before the committee in which the gentleman says both the manufacturers and the employees were represented, did they arrive at an agreement and is this bill presented here to-day satisfactory to both the manufacturers and the employees?

Mr. PETERS. The provisions of this bill met the demands of both the manufacturers and the employees as presented to the committee. This particular bill was not up for consideration at the time of the hearing. It became necessary to draw a new bill and meet some objections made to the bills which the committee was then considering, and I drew this bill and introduced it for the committee.

Mr. TILSON. But the provision changing the law was agreed upon?

Mr. PETERS. That provision meets the wishes of both parties.

Mr. CANNON. Mr. Chairman, will the gentleman yield?

Mr. PETERS. Certainly.

Mr. CANNON. How many employees are there in the United States making cigars?

Mr. PETERS. I was coming to that in a minute. In the year 1909, which is the most recent year for which the statistics are available, there were on an average 139,578 employees in the United States in the cigar factories. This does not include clerks or salaried persons.

Mr. CANNON. If I understand this bill, it would allow each employee to have 21 cigars a week, where the tobacco was imported or where any kind of a tax was paid upon it, free of the tax. Is that right?

Mr. PETERS. For personal consumption and experimental purposes.

Mr. CANNON. Now, has the gentleman taken into consideration the question of allowing all clerks in dry goods houses, all employees who make up goods into clothing—in other words, have this law extended so that everybody might be accommodated and freed from the tax who is engaged in the handling or making up of various products?

Mr. PETERS. It is only the intention of the committee by this bill to legalize what has been the recognized custom of the cigar trade for many years, and they have not gone beyond that.

Mr. CANNON. If it be a good custom, and I am not expressing any opinion about it; but if it is good for 135,000 employees who make up tobacco, why is it not good for 5,000,000 or 10,000,000 employees that they should also be relieved of the burden for consuming that which they handle? What I want to get at, without expressing any opinion, is, did the committee consider the proposition that I have referred to of extending similar privileges to everybody who is engaged in any kind of industry?

Mr. PETERS. The committee certainly did not consider the question of extending the privileges of this act beyond those people who have already had this advantage.

Mr. CANNON. Why not? Is the act vicious; is the act bad in principle?

Mr. PETERS. The reason why we should not do it is that we are merely legalizing a custom which already exists. We are not making any new exemptions from taxation and not extending the exemption.

Mr. CANNON. A custom is legal itself if it be a good custom under common-law definition; then why is it necessary for this legislation if it be a custom?

Mr. PETERS. If the gentleman would be so good as to read the three rulings of the Treasury Department, made last September and December, to which I have referred, he will see that it is necessary to legalize this custom if it is to be continued.

Mr. CANNON. A custom if it is a good custom is the law, and if it is no longer a custom there is no necessity for this legislation. Is not that it?

Mr. PETERS. It was a custom until the rulings of the Treasury Department forbade it.

Mr. CANNON. Well, why not extend its advantages and have the burdens of taxation taken off of all the people equally?

Mr. PETERS. I have just explained why it makes legal a custom which has been in existence for 100 years or more. I will submit at this point a summary statement giving certain

statistical facts in regard to the number of people employed in the manufacture of cigars and the revenue duties collected thereon.

The returns for the year 1909—most recent year available—show:

Average number of employees in cigar factories, wage earners only—does not include clerks or salaried people—139,578.

Of whom there were:

Men over 16 years of age, 69,392.

Women over 16 years of age, 66,338.

Children under 16 years, 3,848.

The internal-revenue tax on 1,000 cigars is \$3.

The average cigar maker produces approximately 30,000 cigars annually, thus producing a revenue of \$90. If he consumed 21 cigars a week, or 1,092 a year, the revenue would be decreased by a little over \$3.

Estimating that 80 per cent of men over 16 smoke, they would consume in a year about 60,000,000 cigars.

On which there would be a revenue tax of 66,000 times \$3 uncollected, or \$180,000.

The maximum total loss is, then, \$180,000.

Total internal-revenue tax on tobacco, 1911, \$67,005,950.56.

Of which there was collected on cigars alone, \$22,673,008.31.

These figures show the extremely trifling amount which these exemptions would affect in regard to the total amount of revenue received, and when we come to consider that 21 cigars a week has been allowed to those in the trade ever since the inception of the industry, you will see that the total amount of revenue which would be lost by this act would be inconsiderable indeed.

Mr. JAMES. There is no loss of revenue, because there has never been any revenue collected heretofore.

Mr. PETERS. The gentleman is entirely correct.

Mr. WHITE. May I ask the gentleman a question?

Mr. PETERS. Certainly.

Mr. WHITE. Does the gentleman include stogies in the use of the word "cigars"?

Mr. PETERS. I suppose they are included in the revenue department as cigars.

Mr. WHITE. They are not specifically referred to in cigars, and I desired to know whether they were included in the gentleman's statistics.

Mr. PETERS. I suppose so. I obtained these statistics from the Census Bureau. They have not yet been printed, and details are not, therefore, available.

Mr. SPARKMAN. I suppose, of course, the necessity for this legislation grows out of the recent ruling of the Commissioner of Internal Revenue?

Mr. PETERS. There were three rulings made in 1911 in the closing months, which took away from the operatives the privilege of smokers which heretofore existed, which made some action necessary.

Mr. SPARKMAN. All the other Commissioners of Internal Revenue from the beginning of the Government down to the present time made no such ruling; in other words, had recognized that practice?

Mr. PETERS. It was universally recognized until the recent ruling was made.

Mr. SPARKMAN. And the sole purpose of the present bill is to legalize the custom that has grown up under that practice for a good many years—a century, as you say?

Mr. PETERS. The sole purpose is to legalize the custom which had been recognized since the commencement of the trade.

Mr. SPARKMAN. I would like to make the suggestion that I think your bill is simply more conservative than the custom that has grown up in the factories where the clear Habana cigars are made. I think the operatives there have been accustomed to take as much as 25 cigars a week. You provide for 21?

Mr. PETERS. We have done so. The custom has itself much to commend it. It gives an opportunity for the inexperienced to try their hand at preparing cigars. It gives an opportunity for the manufacturer to have his tobacco tested by his operatives and to find the exact value of that tobacco for the purpose which he wishes to make of it, and, in addition, this custom has become so general that the attempt to abolish it has brought forth strong objections and considerable hardship on the part of the men employed in this business.

Mr. BOWMAN. Will the gentleman yield?

The CHAIRMAN (Mr. BYRNS of Tennessee). Will the gentleman from Massachusetts yield to the gentleman from Pennsylvania?

Mr. PETERS. With pleasure.



Mr. BOWMAN. I see in the report of the committee, in the last paragraph of the letter signed by Commissioner Cabell, the following statement:

The only method by which a manufacturer may safely supply his employees with "smokers" is to pursue the course adopted by some of the large manufacturers, who for years have supplied their cigar makers and other employees with "smokers" from packages that have been marked, branded, and stamped in accordance with the law and regulations.

Does not the gentleman think it is better to have that practice followed by all the manufacturers?

Mr. PETERS. The manufacturer will not do that. We prefer to legalize the old custom.

Mr. BOWMAN. Does not the gentleman think that if they open it up in this manner it will be open to further abuse?

Mr. PETERS. The committee does not think so. The custom had been in use for years, and there was not brought to the committee any instance of an attempt to defraud the Government. The committee has full confidence in the intentions of the manufacturers and operatives, and I am sure if the gentleman had been at the hearings he would have seen from the representatives of the operatives who were there that no advantage would be taken of the provisions of this bill.

Mr. Chairman, in its effort to reestablish this custom your committee report the bill and hope for speedy and favorable action by the House.

I reserve the balance of my time.

Mr. PAYNE rose.

The CHAIRMAN. The gentleman from New York [Mr. PAYNE] is recognized.

Mr. PAYNE. Mr. Speaker, it is true this bill has received the approval of the manufacturers, although disapproved by some of them who prefer to do their business in a straight, legal way, according to the present law. Of course, the cigar makers are in favor of it, because it furnishes them cheaper cigars to smoke, and some manufacturers are in favor of it because it saves the tax on cigars, and they are able to mix up in some way the tax on the cigars and the wages of the employees and get a little benefit out of it. And for that reason both of them are in favor of the bill.

The practice was prohibited by the old law, because they thought it was necessary in framing the old law to provide some safety for the high revenue that was exacted upon manufactured cigars. The manufacturers were charged with the amount of tobacco and with the probable number of cigars it would make, and that was one check which the Commissioner of Internal Revenue had upon them, and one means that he had to exact the full tax.

The tobacco goes into the manufacture of cigars, as you all know, and the cigars can not come out of the factory unless they are put up into boxes, and the internal-revenue authorities close the boxes so they can not be opened without breaking the tax stamp that is pasted upon the box.

Now, this practice of free cigars for employees grew up in contravention of the law. The men would take tobacco and make it up into cigars and smoke them while they were doing their work. Probably no great amount of tobacco was consumed in this way. The proprietors and manufacturers allowed it to be done, and the cigar makers, of course, were anxious to have the practice continued. But, like all such practices, it got a little over the borders of moderation, and they began to take home with them the cigars on which no revenue tax had been paid. The practice increased and the number of cigars taken out increased from time to time until the practice became a serious drag on the revenue, the commissioner said \$1,000,000 per year.

It was on account of this fact that the Commissioner of Internal Revenue, if I remember the hearings correctly, about two years ago, decided to enforce the law.

Mr. SPARKMAN. It was last year, in September.

Mr. PAYNE. Since that time he has enforced the law, and has required that no cigars should go out of the factory. If I remember correctly the evidence taken by the committee some time ago, it was to the effect that no cigars should be used in the factory and smoked unless the internal revenue was paid according to law. That was very strict.

When that regulation was put into effect, of course there was a muttering of discontent, and finally it grew to such importance that the workmen and employees appeared before the Committee on Ways and Means during the present year and, as my friend says, a number of bills were introduced to relieve this situation. The committee had the Commissioner of Internal Revenue appear before them, and he was examined fully upon this subject. He was asked if the revenue could be protected if legislation of this sort were enacted. He said he thought that if permission were given to exempt from the payment of the

tax only such cigars as were smoked upon the premises by the employees it would not make any great inroad upon the revenue, and in his opinion it would be sane legislation. I do not know whether he said just that, but, adopting the language of the day, I will include that word "sane."

This arrangement was made, of giving 3 cigars a day to each employee, or 21 during the week. He said that if these employees were allowed to take the cigars from the premises without their being packed in boxes and stamped and the revenue paid upon them, you might just as well take the revenue tax off of cigars and tax something else in order to raise revenue. He put it in one sentence as strongly as that. Perhaps that was a little stronger than he meant it to be. But at any rate, he said it would result in a great loss of revenue if that practice were legalized.

That is the reason I am opposed to this bill in its present form. I do not object to allowing the makers of cigars to use such tobacco as is given them by their employers on the premises, but I do object to having the cigars made from it taken away, because that opens the door to temptation to those employees and to fraud on the revenue. I am afraid that if the employees are allowed to get the cigars out of the shop they will not always be inclined to use them for their own personal use. There will probably be people outside who will be tempted to buy the cigars of them. Of course the United States Government can not follow these employees beyond the doors of the factory to see whether the cigars are used in that way or not. The espionage by the Government authorities is in the factory. Beyond that they have no control over the revenue, and it is not safe to let the cigars go out in a wholesale manner.

I do not know whether the gentleman's calculations are correct or not as to the number of employees and the number of cigars that are to be used. I do not know whether the employees would use all the 21 cigars allowed in a week or not. I know that a calculation was made in the committee, and the number ascertained was enormous, and the amount of revenue was much larger than \$185,000, as we calculated it then. I have not looked at it since. I have not had the report of the hearings, but I recall it was much larger than \$185,000.

Now, why not amend this bill, and confine it to cigars used upon the premises by these employees, and not allow them to take any out, and not endanger the revenue? Why should you endanger the revenue against the protest of the Commissioner of Internal Revenue, who has the collection of the revenue under his jurisdiction? I think a very simple amendment to this bill would guard against that, and then, as far as I am concerned, I should not have any objection to its passage, although I believe, going away back to the foundation, that we ought not to make any exemption, and we ought not to allow anybody any special privilege in regard to these things. I am against special privileges, whether to rich people or poor people, whether to the laboring man or the capitalist. I do not believe in special privileges to anybody. I hear a great many people talk glibly about special privileges, and then see them go and vote to give special privileges to a special class.

I know that in the manufacture of beer in breweries employees are allowed to drink all the beer they can drink on the premises, but they are not allowed to take it out in bottles or in cans and drink it somewhere else, or peddle it out to other people to drink.

Bear in mind that the only safeguard the Government has is, in the first place, in weighing in the tobacco into the factory; then, after that is done, to see that the proper amount of cigars come out of the factory and pay the tax. If you allow them to come out in any way except in boxes properly stamped, you run the risk of losing the revenue and of giving some one free cigars, as against all the other citizens of the United States. Confine it to the employees in the cigar factory, and do not go outside of that.

I do not care to talk longer upon this, Mr. Chairman, because I have said, perhaps, all I want to say, and because I understand the gentleman from Wisconsin wishes to make an hour's speech.

Mr. SPARKMAN. I should like to ask if the Government does not require 1,000 cigars out of 25 pounds of tobacco?

Mr. PAYNE. Yes; that is the minimum. They require that as a minimum, and if they make any more cigars than that, they can not go out of the factory unless they pay a tax on them by putting them in boxes and paying for the stamps.

Mr. SPARKMAN. The gentleman has admitted that this practice has been going on for a great many years.

Mr. PAYNE. It has grown into a practice.

Mr. SPARKMAN. How will the Government lose by legalizing a practice that has been going on? In other words, how will it lose that which it has never been collecting?

Mr. PAYNE. It was because the revenue was diminishing on these things, and the commissioner found he was not collecting the proper amount of revenue, that he called attention to the law and the strictness of it, and enforced it.

Mr. SPARKMAN. I read the hearings very carefully, and I do not recall that the commissioner found that he was losing or that the practice was growing to any extent at all.

Mr. PAYNE. You will remember that his experience was such under that old practice that he protested most vehemently against changing the law and allowing them to take the cigars out of the factory.

Mr. SPARKMAN. Right or wrong, this present commissioner did that which his predecessors never did. He did it, not because the practice was growing, but because he thought it ought to be stopped.

Mr. PAYNE. There is no question but that he was right on the law, and right in the interest of collecting revenue, and his attention was called to it for that purpose.

Mr. COOPER. It is true, I believe, that this practice of smoking three cigars a day or taking them out is a very old custom; but does not the gentleman from New York think that the language of the pending bill is sufficient to prevent any abuse? It provides, in line 15, page 2—

That each employee of a manufacturer of cigars shall be permitted to use, for personal consumption and for experimental purposes, not to exceed 21 cigars per week without the manufacturer of cigars being required to pack the same in boxes or to stamp or pay any internal-revenue tax thereon.

Now follows the language to which I wish to direct the gentleman's attention:

Such exemption to be allowed under such rules and regulations as the Secretary of the Treasury may prescribe.

Would not that language, which confers plenary powers on the Secretary of the Treasury to pass rules and requirements to be observed by these employees, suffice to prevent abuse?

Mr. PAYNE. I do not think so, for this reason: If my friend from Wisconsin will allow me to make a personal example, I think if he was administering it that he would let the cigars go off the premises, and if I was administering it I would not allow them to go off. I want to call the gentleman's attention to this suggestion: Suppose, in line 16, after the word "use," we insert the words "on the premises of the manufacturer," so that it will read "that each employee of the manufacturer of cigars shall be permitted to use on the premises of the manufacturer for personal consumption and for experimental purposes," and so forth.

Mr. COOPER. But I can see how an employee might want to take home a cigar to smoke after supper, the same as does the man who has ample money to pay for cigars. It strikes me that there is no great hardship coming to the Government of the United States, nor to anybody else, by permitting the employee to take the cigar home and smoke it.

Mr. PAYNE. The officials of the revenue department do not agree with the gentleman on that.

Mr. COOPER. The internal-revenue official thinks that there will be a loss of revenue. But if the internal-revenue officials and the Secretary of the Treasury get together and formulate rules and regulations so that an employee can not take out more than three cigars, I do not see how it could make any difference to the revenue whether they are smoked on the premises or taken home and smoked. Under proper rules and regulations the interests of the Government will not be injuriously affected.

Mr. PETERS. I wish to call the attention of the gentleman from New York to the fact that the rules in certain factories prohibit smoking on the premises for hygienic reasons, and it would be impossible to provide that they must be smoked on the premises.

Mr. PAYNE. That makes the privilege all the worse. If the proprietors want it done, they could arrange a room for the smoking of the cigars. There is no hardship in that, and I do not think that we ought to injure the revenue every time some one comes along and says that it would be more pleasant to have it done thus and so. I think that it is conceding a good deal to concede what has been done already.

Mr. COOPER. The gentleman from New York speaks about injuring the revenue. Is it not a fact that from the beginning the receipts from the tax on tobacco have increased constantly?

Mr. PAYNE. Oh, certainly.

Mr. COOPER. And yet this practice has been going on.

Mr. PAYNE. The consumption has increased; there is no doubt about that. The legitimate consumption in the factory has increased and also the carrying away of cigars has increased, and still the revenue is increased, because the consumption has increased. We are a country of generous smokers. Mr. Chairman, I reserve the balance of my time.

Mr. MANN. Mr. Chairman, I have the very highest regard for the opinion of the gentleman from New York [Mr. PAYNE] in reference to the revenue. I am inclined to believe that the custom which has prevailed for many years in the cigar manufacturing business might well continue to prevail, although it is a pure case of special privilege to a few and a direct subsidy to the employees. If the gentlemen on the other side of the aisle can overcome their consciences without hesitation after just passing a platform against special privileges, then passing a bill almost immediately to provide a special privilege and grant a subsidy, I am not going to stand in the way.

Mr. PAYNE. Has the gentleman overlooked the fact that passing the platform and passing the bill had a connection, each one of them, with votes and voters? I do not mean to say that any gentleman was influenced by any such consideration, but it does have a direct bearing on both.

Mr. FITZGERALD. No consideration at all but the public welfare.

Mr. JAMES. Is that what inspired the gentlemen on the Ways and Means Committee to support the bill, the gentleman from Connecticut [Mr. HULL] and others?

Mr. PAYNE. The gentleman from Kentucky is entitled to his own judgment in individual cases.

Mr. REILLY. Mr. Chairman, I am strongly in favor of this bill, which embodies the salient features of several bills that have been introduced, one of which I had the honor of presenting. The principal point in the bill and the one in which the cigar makers and manufacturers are interested is that which exempts from the revenue tax 21 cigars a week for each employee for his own use, consumption, or experimental purposes.

The arguments presented against the bill by the department are not good and will not stand up against strict scrutiny as to facts or motives. While the object of the department may be to secure all the revenue possible, the fact that until the great Tobacco Trust had secured control of so many factories no effort had been made to collect the tax on the "smokes," so called, might lead one to suspect that the trust factories were entirely in harmony with the rule to enforce the tax in the belief that it would put an end to the practice and save to trust uses a small quantity of tobacco used in making the free smokes—in other words, another phase of trust avarice.

For more than 100 years, or since the beginning of the cigar-making industry, cigar makers have been permitted to make, in their own time, and without charge for stock, cigars for their own use and consumption. These have been commonly known as "smokers." The stock used generally has been the tobacco that is not fit to be used in cigars that are offered for sale, or, in other words, the tobacco has been damaged stock. The cigar manufacturer has never objected to this custom, which has really become an unwritten law in the business, but a comparatively recent ruling of the Commissioner of Internal Revenue has made it obligatory on the part of the manufacturer to pay for all "smokers" made by the cigar makers. This drastic ruling has caused great dissatisfaction. The manufacturers are opposed to it as well as the men. The men look upon it as a right, established by long custom, and they will not be deprived of it. In my opinion, the ruling is uncalled for, and the men, believing that an established privilege is being denied them, will still continue to have their "smokes," and this implies no dishonesty on the part of the men.

The Government is not out a dollar by this custom, for the tobacco used by them would not be manufactured into cigars upon which the tax would be paid. This bill provides that a very reasonable number, namely, 3 a day, or not to exceed 21 per week, be allowed each employee. This provision as to the number has the approval of manufacturers and cigar makers alike. My bill was introduced by me at the request of several large cigar manufacturers in my district, and as this bill embodies the main feature of mine and the only one of interest to the cigar makers and manufacturers I give it my hearty approval.

As most clearly proving the justice of this measure I desire to quote from the statement made before the Ways and Means Committee by President G. W. Perkins, of the Cigar Makers' International Union. Among other things Mr. Perkins said:

"The cigar maker, in order to become proficient in the making of cigars so as to get the best possible results and to produce cigars that would smoke properly and give proper satisfaction, out of necessity had to test them by actual smoking of his own work. Tobacco is perhaps the most peculiar in its nature of any plant grown. It has to be handled properly by the cigar maker in order to give the best results. The cigar maker can better judge the manner in which to make cigars properly by personally smoking one, and in doing so is helping not only the customer but the manufacturer as well. Tobacco is one of the hardest things in the world to correctly judge. Almost any other commodity can be judged by the test of seeing, feeling, and tasting while tobacco has to be seen, felt, tasted, and smoked before a correct judgment can be made."



ment can be reached. Thousands of manufacturers located everywhere experience great difficulty in correctly judging tobacco. They have asked the cigar maker to roll it, smoke it, and pass judgment on the quality of the tobacco. This is particularly true in the smaller shops. Thousands of times that thing has been asked of me. These two facts—that is, the testing of the workmanship and the tobacco by actual smoking at the request of the manufacturer—inaugurated the so-called smoker privilege, which has existed in our country for about 100 years. We did not start it. This privilege grew out of a commercial necessity, which exists to-day to a greater extent, if anything, than it ever did in the past. The few smokers the cigar makers get are of greater benefit to the consumer and to the manufacturer than to the cigar maker.

This is the best evidence of putting in the bill the "experimental purposes" provision and shows the benefit of the proposed measure to the manufacturer and consumer.

That there will be no abuse of this exemption is assured by the character of the average cigar maker. I quote from the testimony of Mr. Sol. Sontheimer, of Hartford, Conn., an experienced and reputable cigar maker, on this point:

At no time in my experience—and I have worked as a cigar maker for 35 years at the bench—can I recall a single internal-revenue commissioner that has so construed the law that would practically deprive us of a custom that has been in existence for something like 100 years. We cigar makers that work at the bench have a sense of propriety. Particularly is this true in teaching and telling our colleagues what we presume to be the fair conduct in relation to their employer's property, because we are aware of the fact that to abuse that privilege might possibly lead up to a point where grave complications might arise and we be denied those privileges. For that reason, to teach amongst the craft that particular point upon which I am trying to lay stress, that we cultivate the idea of honesty in the removal of this product, as a result of which the commissioner claims the Government loses a large amount of revenue.

I have a number of letters from different manufacturers in New England. I am working for one that employs something in the neighborhood of 100 cigar makers, and he, like all other manufacturers that I have come in contact with in New England, favors some legislation along this line, such as the Reilly bill.

There is every reason in justice why this bill should pass; there is no good reason yet shown why it should not; and I feel confident this wise and very moderate provision will soon be on the statute books.

Mr. MANN. I would be willing to confess that if there were no voters and no other persons involved I would not be in favor of the bill, because there would be no occasion for its passage.

Mr. Chairman, I would like now to make an inquiry. A few moments ago the gentleman from Wisconsin [Mr. BERGER] desired to address the House upon some subject, where he was entitled to speak in Committee of the Whole House on the state of the Union when considering a revenue bill. I understand that my friend from Texas [Mr. HENRY] prevailed upon the gentleman from Wisconsin to withhold his address this afternoon. I promised at the very first opportunity to get the gentleman from Wisconsin an opportunity to address the House. I did that in my capacity as floor leader upon this side of the House representing in that respect to a certain extent the gentleman from Wisconsin.

Mr. SABATH. And his party?

Mr. BERGER. No; not his party.

Mr. FITZGERALD. I did not understand that the gentleman from Illinois contended for an instant that he represented the party that caucuses in the person of the gentleman from Wisconsin.

Mr. MANN. I do not attend the caucuses of the party; although the gentleman from Wisconsin and myself, as nominal heads of parties in the House, frequently confer. [Laughter.]

Mr. FITZGERALD. And conspire against us.

Mr. MANN. Mr. Speaker, I wish to make an inquiry of the gentleman from Texas as to what his purpose is when we get into the House, for the balance of the afternoon, after the House finishes this bill?

Mr. HENRY of Texas. Mr. Chairman, I will state that I had one or two special rules that I would like to present, but only one in particular that I shall insist upon, and that is a resolution broadening the powers of the Committee on the Merchant Marine and Fisheries in regard to the investigation of the Shipping Trust.

Mr. MANN. To that I have no objection, but I do not think it would be fair to the House to bring up at this time rules in reference to other matters.

Mr. HENRY of Texas. I shall withhold all other special rules this afternoon.

Mr. MANN. May I inquire further whether there will be any objection after we get back into the House this afternoon to at that time granting an hour to the gentleman from Wisconsin, to be consumed on Thursday next?

Mr. HENRY of Texas. None in the world. I have assured the gentleman from Wisconsin that I would be glad to have him get the hour next Thursday, and there will be no difficulty about it.

The CHAIRMAN. The Clerk will read the bill for amendment under the five-minute rule.

The Clerk proceeded with the reading of the bill.

Mr. PAYNE (interrupting the reading). Mr. Chairman, I ask unanimous consent that the second reading of the bill be dispensed with and that we now proceed to amend it.

The CHAIRMAN. The gentleman from New York asks unanimous consent that the second reading of the bill be dispensed with. Is there objection?

There was no objection.

Mr. PAYNE. Mr. Chairman, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Page 2, line 16, after the word "use," insert the words "on the premises of the manufacturer."

Mr. PAYNE. Mr. Chairman, I do not care to say anything further on that amendment.

Mr. FITZGERALD. Would not the effect of this amendment be to practically defeat the purpose of the bill?

Mr. PAYNE. Not at all. It reverts to the original practice in the shops, which has grown into an abuse.

Mr. FITZGERALD. Have they not now adopted regulations that prevent the smoking on the premises in many instances?

Mr. PAYNE. They had not at the time of the hearings.

Mr. LONGWORTH. Oh, I think so. I think there are a number of factories that do not permit smoking on the premises; more than 50 per cent, as I remember.

Mr. PETERS. Mr. Chairman, this amendment would nullify the purposes of the bill. According to the testimony of the witnesses before the committee, in many factories no smoking is permitted at the present time, on account of the welfare of the employees. Women are employed as well as men, and hygienic conditions have rendered it necessary in the modern factories to prevent smoking, and this amendment, if adopted, would do away in great part with the benefits of the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

Mr. SABATH. Mr. Chairman, I offer the following amendment as a new section.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Insert at the end of the bill as a new section the following:

"It shall be unlawful after the passage of this act to issue or give away with any cigars or cigarettes offered for sale any trading stamps or premium. Anyone violating this section shall be fined for each and every offense not more than \$1,000 or by imprisonment not more than six months, or both."

Mr. PETERS. Mr. Chairman, I make the point of order on the amendment. I will reserve the point of order if the gentleman wishes to speak on it.

Mr. SABATH. Mr. Chairman, in the last 10 years the Tobacco Trust through its foster child, the United Cigar Stores Co., by the adoption of a scheme which is, in fact, nothing more or less than doing business under false representation, has, as no doubt you are aware, driven out of business in all the large centers the majority of the independent and small cigar manufacturers and dealers. Not that they manufacture better cigars or sell them at a lower price, but because through a certain misleading method which they have adopted, known as the "profit-sharing" plan, they have led the public to believe that they are giving them part of their profits by issuing to each customer with each and every purchase certain coupons and certificates which will entitle them, after they accumulate a large number, to a very valuable present or premium, while, in fact, Mr. Chairman, the value of these coupons and certificates is very small, and frequently, after such misled customer has smoked himself nearly to death, he will receive an article which is of no value to him. But inasmuch as the large percentage of the American people insist on being humbugged and fooled the scheme has enabled the United Cigar Stores Co. to so intrench itself that the independent honest dealer or dealers have no chance to compete against this giant monopoly.

In my own city I have seen hundreds of old and crippled men and feeble women who formerly secured a livelihood by engaging in the business of selling tobacco and cigars driven out of business by the unfair and unjust competition of this vicious monopoly.

To-day the independent dealers of this country are at the mercy of this combination, as it is impossible for them to compete with this trust, as they, the small independent dealers, living in the vicinity of their places of business, conduct their business honestly and do not and could not afford to practice tricks and deceit upon the community, as the unscrupulous trust managers do, who care not what they do as long as they secure business, and can show an increase of business to the board of directors.

The amendment that I have offered will, I believe, in a great measure, if adopted, put a stop upon this method of doing business and will give the independent dealers a chance and an opportunity to exist, as it will put them on equal terms with the trust, believing that the independent dealers and small cigar manufacturers can compete with the United Cigar Co. and can give the people better cigars, better tobacco for the same price that the United Cigar Stores can. My reason in believing this is based on the fact that in the majority of instances the trust has rented the most prominent corners, for which it is obliged to pay tremendously high rents, and pays its officers extremely high salaries, thereby being under heavy expense, where, on the other hand, the independent small cigar dealer or manufacturer is not obliged to do so and can do business on a smaller margin. Not having to pay these enormous rents and high salaries, it is plainly evident that it is not necessary for him to make as great a profit and enables him to give a better article at the same price, as the trust must sell a poorer grade with which to give their "profit-sharing" coupons and certificates, and to provide for large dividends.

I feel confident that if these trust-owned stores would be deprived of this special advantage, be prevented in continuing these misleading offers, and be obliged to do business on the same basis, that within a very short space of time all those who have been obliged to give up their places of business would again return and be in a position to earn a fair living for themselves and those dependent upon them. By accepting my amendment we will eliminate a great deal and put a stop to the abuses on the part of the great Tobacco Trust. I hope that the gentleman from Massachusetts will not press his point of order, hoping that he will recognize and appreciate the fairness of my amendment.

Mr. LONGWORTH. Will the gentleman yield for a question? I did not hear very well the gentleman's amendment when read. Does his amendment include coupons?

Mr. SABATH. That is what I meant—trading stamps and coupons.

Mr. LONGWORTH. I mean the coupon that is placed inside the package as well as the coupon or the trading stamp that is handed outside the package.

Mr. SABATH. I do not know whether that hurriedly drawn amendment provides for coupons, but that was my intention.

Mr. LONGWORTH. The gentleman knows there are two different ways of working this thing. One is by a coupon which is placed inside the package and the other is by a trading stamp which is handed to the purchaser at the time of his purchase.

Mr. SABATH. I believe my amendment would cover both of those cases.

Mr. LONGWORTH. The gentleman intends to cover both cases?

Mr. SABATH. I do; that is my intention.

Mr. PETERS. Mr. Chairman, there is a bill before the House at this Congress containing the provisions of the amendment offered by my colleague from Illinois. I am obliged to insist upon my point of order, as I fear that the amendment offered by the gentleman from Illinois would, if it were accepted and put in the bill, seriously jeopardize its passage at this time, and I have too much at heart the granting of this relief to the employees of the cigar factories to take any chances of defeating the bill by adding this amendment.

Mr. SABATH. Well, the gentleman has not stated his point of order on which he relies.

Mr. PETERS. My point of order is that it is not germane to the bill.

Mr. SABATH. I think it is germane to the bill. It adds simply another provision to the bill.

The CHAIRMAN. The Chair holds that the amendment offered by the gentleman from Illinois is not germane to the bill, and therefore sustains the point of order made by the gentleman from Massachusetts.

Mr. PETERS. Mr. Chairman, I move that the committee do now rise and report the bill to the House with a recommendation that it do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. BYRNS of Tennessee, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 24741, and had directed him to report the same back to the House with the recommendation that it do pass.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. PETERS, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. PETERS. Mr. Speaker, inasmuch as several gentlemen have asked to extend remarks, I ask unanimous consent that remarks on this subject may be extended in the Record if submitted within five legislative days.

Mr. PAYNE. Mr. Speaker, reserving the right to object, I do not know whether I ought to allow this to be done or not. I am not in favor of electioneering in the CONGRESSIONAL RECORD. However, out of good nature, I will not object.

The SPEAKER. The request is that all Members shall have the right to publish remarks in the Record for five legislative days.

Mr. MANN. Mr. Speaker, I shall have to object.

#### INVESTIGATION OF SHIP LINES, ETC.

Mr. HENRY of Texas. Mr. Speaker, I offer a privileged resolution (H. Res. 587) from the Committee on Rules.

The SPEAKER. The gentleman from Texas [Mr. HENRY] offers a privileged resolution (H. Res. 587), which the Clerk will report.

The Clerk read as follows:

House resolution 587 (H. Rept. 1010).

*Resolved*, That the Committee on the Merchant Marine and Fisheries be, and is hereby, empowered and directed to make a complete and thorough investigation of the methods and practices of the various ship lines, both domestic and foreign, engaged in carrying our over-sea or foreign commerce and in the coastwise and inland commerce, and the connection between such ship lines and railroads and other common carriers, and between such lines and forwarding, ferry, towing, dock, warehouse, lighterage, or other terminal companies or firms or transportation agencies, and to investigate whether any such ship lines have formed any agreements, understandings, working arrangements, conferences, pools, or other combinations among one another, or with railroads or other common carriers, or with any of the companies, firms, or transportation agencies referred to in this section, for the purpose of fixing rates and tariffs, or of giving and receiving rebates, special rates, or other special privileges or advantages, or for the purpose of pooling or dividing their earnings, losses, or traffic, or for the purpose of preventing or destroying competition; also to investigate as to what methods, if any, are used by such ship lines, foreign or domestic, and railroads and other common carriers, or of any of the companies, firms, or other transportation agencies referred to in this section, to prevent the publication of their methods, rates, and practices in the United States; also to investigate and report to what extent and in what manner any foreign nation has subsidized or may own any vessels engaged in our foreign commerce; also to investigate and report to what extent any vessel lines and companies, or any of the companies, firms, or transportation agencies referred to in this section, engaged in our foreign or coastwise or inland commerce, are owned or controlled by railway companies, by other ship lines or companies, or by any of the companies, firms, or transportation agencies referred to in this section, or by the same interests and persons owning or controlling railroad companies, ship lines, or other common carriers, or any of the companies, firms, or transportation agencies referred to in this section; and said committee shall further investigate whether the conduct or methods or practices of said foreign steamship lines are in contravention of our commercial treaties or in violation of our laws, and what effect said methods and practices have on the commerce and freight rates of the United States; and shall further investigate what effect such combinations, agreements, understandings, working arrangements, and practices of railroads and our coastwise and inland shipping lines, or of railroads and such shipping lines and any of the companies, firms, or transportation agencies referred to in this section, or of railroads and over-sea shipping lines, whether domestic or foreign, if any are found to exist, have on the commerce and freight rates of the United States, and whether the same are in violation of the laws of the United States.

Sec. 2. That said committee shall report to the House all the facts disclosed by said investigation and what legislation, if any, it deems advisable in relation thereto.

Sec. 3. That said committee, or any subcommittee thereof, is hereby empowered to sit and act during the sessions or recess of Congress at such place or places as may be found necessary and to require the attendance of witnesses, the production of books, papers, rates, tariffs, and other documents, by subpoena or otherwise, to swear such witnesses and take their testimony orally or in writing.

Sec. 4. That said committee is hereby authorized to employ such counsel and experts and clerical and other assistance as shall be necessary to perform its duties hereunder.

Sec. 5. That the Speaker shall have authority to issue subpoenas for witnesses, upon the request of the committee, during the recess of Congress in the same manner as during the sessions of Congress.

Mr. HENRY of Texas. Mr. Speaker, I suppose gentlemen do not desire any explanation, inasmuch as the resolution is plain and speaks for itself. Still, if any Member is not satisfied with it, I will be glad to explain it.

Mr. MANN. I think it would be well to explain it generally.

Mr. HENRY of Texas. I will state in general terms that this is simply amendatory of resolution No. 425, and broadens that resolution to the extent that it takes into consideration certain wharf, dock, warehouse, and lighterage companies in order that the Committee on the Merchant Marine and Fisheries may investigate their affairs in connection with other matters that the House directed them to investigate under H. Res. 425. It broadens that resolution to that effect and that only. That is all there is to the resolution. I will be glad to answer any question about it.

Mr. ROBINSON. The former resolution related only to the shipping itself?

Mr. HENRY of Texas. Yes.



Mr. RODDENBERRY. Mr. Speaker—

The SPEAKER. The gentleman from Georgia is recognized.

Mr. RODDENBERRY. Mr. Speaker, this resolution calls for an investigation which is something in the nature of a commission, to make inquiry and report. We have the Immigration Commission, which was appointed some five years ago, designated to make an investigation and report on needed immigration legislation, spending about a million dollars of the public money. They have investigated and reported, and the committee of the House, as well as of the Senate itself, has acted on the report of the commission in part, and has now reported to this body a bill carrying into effect some of the recommendations of the report of that committee or commission. About June 1 I introduced a resolution, which was referred to the Committee on Rules, asking them to report out a special rule calling for the consideration at this session of the immigration bill. And before going into further commissions and investigations, I would like to inquire of the gentleman what investigation the Committee on Rules has made touching the resolution introduced by myself as well as by the gentleman from Alabama [Mr. BURNETT], who reported the bill, looking to the bringing in of a special rule, for consideration before the House of the bill for further restricting alien immigration as reported by the committee?

Mr. HENRY of Texas. Mr. Speaker, of course the gentleman will understand that this resolution relates to the shipping-trust investigation which has already been ordered. In regard to the bill to which the gentleman refers and the special rule, I will say that the Committee on Rules is giving very careful consideration to his rule, as they always do to anything coming from the gentleman from Georgia. And we will be sure to deliberate most carefully about it, and the bill will have every consideration to which it is entitled, coming as it does from the gentleman from Georgia.

Mr. RODDENBERRY. Does the gentleman think that the consideration will be so long that it will not get out at this session of Congress?

Mr. HENRY of Texas. I would not like to make any prophecy in regard to that matter. It is an important matter and certainly will be carefully considered.

Mr. RODDENBERRY. Has the committee reached any conclusion that they will bring in a special report for the consideration of that bill?

Mr. HENRY of Texas. I will state that several conclusions have been arrived at by different members of the committee, and the chairman of the committee is endeavoring to bring the members together. As soon as we can assemble a quorum of the committee, the bill, as I have said, shall be thoughtfully considered.

Mr. RODDENBERRY. None having been taken—

Mr. HENRY of Texas. I will state that I shall not be unkindful of the views of the gentleman from Georgia when we take up the bill.

Mr. RODDENBERRY. I appreciate the great consideration the gentleman in the future will give and the views he has expressed as to that resolution, but I want to earnestly suggest to the gentleman that after the Government has spent nearly \$1,000,000 in getting a report through the commission, and after a committee of the House has reported the bill, before we extend further commissions and investigations we ought to give the public some legislation on this very important question.

I am not disposed to interpose any objection to this measure, but I merely wanted to bring it to the attention of the distinguished chairman of the Committee on Rules and let the House understand, if it is true, that the gentleman's committee would probably bring out a rule for the consideration of this immigration bill.

Mr. HENRY of Texas. Mr. Speaker, I am glad to have this public declaration on the part of the gentleman from Georgia in order that public acknowledgment may be made and his views shall not be overlooked or forgotten.

Mr. RODDENBERRY. Of course, if the gentleman in any exigency should lose his equipoise and find himself in deep darkness, and should desire some enlightenment, and my committee duties and other official Representative duties do not prevent and my social duties do not interfere, I should be glad to appear before the committee in perfect solemnity of heart and with all the dignity that should attach to a United States Congressman and proceed to enlighten the committee. [Laughter.]

Mr. HENRY of Texas. I wish to say, Mr. Speaker, that the committee has never forgotten for a moment that the gentleman from Georgia is the very first Member for whom we should send when we get into any difficulty and need enlightenment.

Mr. RODDENBERRY. I lament that the gentleman has not proceeded far enough to discover that he needed that enlightenment and information heretofore. [Laughter.]

Mr. HENRY of Texas. I observe it now. Mr. Speaker, I call for a vote on the resolution.

The SPEAKER. The question is on the adoption of the resolution.

The question was taken, and the resolution was agreed to.

LEAVE TO ADDRESS THE HOUSE.

Mr. MANN. Mr. Speaker, will the gentleman yield?

Mr. HENRY of Texas. Yes.

Mr. MANN. Mr. Speaker, I ask unanimous consent that on Thursday next the gentleman from Wisconsin [Mr. BERGER] be permitted to address the House for one hour immediately after the reading of the Journal.

Mr. HENRY of Texas. Mr. Speaker, I hope that request will be granted.

The SPEAKER. The gentleman from Illinois [Mr. MANN] asks unanimous consent that on next Thursday, immediately after the reading of the Journal, the gentleman from Wisconsin [Mr. BERGER] shall be permitted to address the House for one hour. Is there objection?

There was no objection.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed a bill and joint resolutions of the following titles, in which the concurrence of the House of Representatives was requested:

S. 6176. An act for the relief of Gibbes Leykes;

S. J. Res. 119. Joint resolution authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point John C. Scholtz, a citizen of Venezuela; and

S. J. Res. 122. Joint resolution providing for the payment of the expenses of the Senate in the impeachment trial of Robert W. Archbald.

Mr. MANN. Mr. Speaker, I desire to suggest the absence of a quorum.

Mr. HENRY of Texas. I hope the gentleman will withhold for a moment.

Mr. MANN. Mr. Speaker, I will withdraw my point of order as to the absence of a quorum.

HOUSE BILL WITH SENATE AMENDMENTS REFERRED.

Under clause 2 of Rule XXIV, House bill with Senate amendments of the following title was taken from the Speaker's table and referred to the Committee on the District of Columbia:

H. R. 20840. To provide for deficiencies in the fund for police and firemen's pensions and relief in the District of Columbia.

LEAVE TO PRINT.

Mr. HENRY of Texas. Mr. Speaker, I ask unanimous consent that there be printed in the Record an address by Dr. Hannis Taylor, former minister to Spain, on the subject of the American Commonwealth and Its Relation to the East and West. I will state that it is a very short address, but a very valuable one, on present conditions, and so forth.

The SPEAKER. The gentleman from Texas [Mr. HENRY] asks unanimous consent to print in the Record an address by Dr. Hannis Taylor. Is there objection?

Mr. MANN. Mr. Speaker, reserving the right to object, I remember the other day that the distinguished gentleman from Georgia gave notice that he would hereafter object to any request for unanimous consent to extend remarks in the Record for the purpose of injecting political material. I rise to ask if this is a political matter?

Mr. HENRY of Texas. I will say to the gentleman that it is not. It is a very scholarly discussion of the subject.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. REILLY. Mr. Speaker, I ask unanimous consent to extend remarks on the bill H. R. 25741, the smokers' bill, just passed.

The SPEAKER. Is there objection to the gentleman's request?

There was no objection.

Mr. OLMSTED. Mr. Speaker, I desire to print in the Record an address delivered by William D. Guthrie before the Pennsylvania Bar Association at its annual meeting at Cape May, June 25, 1912, on the subject of Constitutional Morality.

The SPEAKER. The gentleman from Pennsylvania [Mr. OLMSTED] asks unanimous consent to print in the Record a speech by Mr. Guthrie on Constitutional Morality. Is there objection?

Mr. ROBINSON. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman from Pennsylvania if this speech is of a political nature? The title of the speech seems to be somewhat obscure.

Mr. JAMES. Has that anything to do with the views of the Bull Moose candidate for President? [Laughter.]

Mr. OLMSTED. I will state that I have not read it through; but, so far as I have read it, it contains no politics. It does, however, make some references to criticisms which have been made of decisions of the Supreme Court.

Mr. MANN. The decisions of the Supreme Court of the United States are considered to be political on the other side of the Hall.

The SPEAKER. Is there objection?

There was no objection.

Mr. SABATH. Mr. Speaker, I ask unanimous consent to extend and revise my remarks on the bill H. R. 25741.

The SPEAKER. The gentleman from Illinois [Mr. SABATH] asks unanimous consent to extend and revise his remarks in the RECORD. Is there objection?

There was no objection.

#### ADJOURNMENT.

Mr. FITZGERALD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 47 minutes p. m.) the House adjourned until to-morrow, Wednesday, July 17, 1912, at 12 o'clock noon.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. REDFIELD, from the Committee on Invalid Pensions, to which was referred the bill (H. R. 21721) granting pensions to Volunteer Army nurses of the Civil War, reported the same without amendment, accompanied by a report (No. 1006), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. ROBINSON, from the Committee on the Public Lands, to which was referred the bill (H. R. 22002), supplementing the joint resolution of Congress approved April 30, 1908, entitled "Joint resolution instructing the Attorney General to institute certain suits," etc., reported the same with amendment, accompanied by a report (No. 1008), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. RAKER, from the Committee on the Public Lands, to which was referred the bill (H. R. 25738) to authorize the Secretary of the Interior to exchange lands for school sections within an Indian, military, national forest, or other reservation, and for other purposes, reported the same without amendment, accompanied by a report (No. 1009), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

#### REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. LEVY, from the Committee on Claims, to which was referred the bill (H. R. 5769) for the relief of Frank Klein, reported the same with amendment, accompanied by a report (No. 1002), which said bill and report were referred to the Private Calendar.

Mr. FRANCIS, from the Committee on Claims, to which was referred the bill (H. R. 13016) for the relief of the West Kentucky Coal Co., reported the same without amendment, accompanied by a report (No. 1003), which said bill and report were referred to the Private Calendar.

Mr. GREEN of Iowa, from the Committee on Claims, to which was referred the bill (H. R. 20385) to reimburse Charles S. Jackson, reported the same without amendment, accompanied by a report (No. 1004), which said bill and report were referred to the Private Calendar.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. MOORE of Pennsylvania: A bill (H. R. 25779) creating a Panama Canal trade commission, and to enable the commercial, agricultural, and industrial interests of the United States to derive advantages from the Panama Canal; to the Committee on Interstate and Foreign Commerce.

By Mr. STERLING: A bill (H. R. 25780) to amend section 3186 of the Revised Statutes of the United States; to the Committee on the Judiciary.

By Mr. BELL of Georgia: A bill (H. R. 25781) to amend section 77 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911; to the Committee on the Judiciary.

By Mr. RAINEY: A bill (H. R. 25782) to establish in the Department of Agriculture a bureau of farm power; to the Committee on Agriculture.

By Mr. TILSON: A bill (H. R. 25783) authorizing the admission of ex-soldiers and ex-sailors of the War with Spain to the Temporary Home for ex-Union Soldiers and Sailors in the District of Columbia; to the Committee on the District of Columbia.

By Mr. STANLEY: Resolution (H. Res. 632) appropriating \$1,000 for an investigation to ascertain whether there have been violations of the antitrust and other acts by the United States Steel Corporation and other corporations; to the Committee on Accounts.

By Mr. RUBEY: Resolution (H. Res. 633) providing for the consideration of H. R. 18323; to the Committee on Rules.

By Mr. RODDENBERRY: Joint resolution (H. J. Res. 338) proposing an amendment to the Constitution providing that Senators shall be elected by the people of the several States; to the Committee on the Judiciary.

By Mr. MOORE of Pennsylvania: Joint resolution (H. J. Res. 339) authorizing and directing the Secretary of State to confer with Great Britain and other nations with a view to their participation in the cost of construction and maintenance of the Panama Canal and the neutralization thereof; to the Committee on Foreign Affairs.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. FAIRCHILD: A bill (H. R. 25784) to correct the military record of Cleveland W. Goff; to the Committee on Military Affairs.

By Mr. FRANCIS: A bill (H. R. 25785) granting a pension to Margaret A. Trimmer; to the Committee on Invalid Pensions.

By Mr. HARRISON of Mississippi: A bill (H. R. 25786) granting an increase of pension to Arthur J. Martin; to the Committee on Pensions.

By Mr. HEFLIN: A bill (H. R. 25787) for the relief of Fannie Hoffman; to the Committee on War Claims.

Also, a bill (H. R. 25788) for the relief of Fannie Hoffman; to the Committee on War Claims.

By Mr. HUGHES of New Jersey: A bill (H. R. 25789) for the relief of William M. Grosvenor; to the Committee on Military Affairs.

By Mr. KINKEAD of New Jersey: A bill (H. R. 25790) for the relief of Melvin W. Sheppard; to the Committee on Claims.

By Mr. LANGHAM: A bill (H. R. 25791) granting a pension to Sarah E. Couch; to the Committee on Invalid Pensions.

By Mr. LINTHICUM: A bill (H. R. 25792) for the relief of William A. Steward; to the Committee on Military Affairs.

Also, a bill (H. R. 25793) granting a pension to George F. Parker; to the Committee on Pensions.

Also, a bill (H. R. 25794) granting a pension to Matthew Flynn; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25795) granting a pension to Ella McGuigan; to the Committee on Pensions.

Also, a bill (H. R. 25796) granting a pension to John Henry Allen; to the Committee on Pensions.

Also, a bill (H. R. 25797) granting a pension to J. C. Shimer; to the Committee on Invalid Pensions.

Also, a bill (H. R. 25798) granting an increase of pension to Eliza A. Rittenhouse; to the Committee on Invalid Pensions.

By Mr. O'SHAUNESSY: A bill (H. R. 25799) granting an increase of pension to George A. Bates; to the Committee on Invalid Pensions.

By Mr. PICKETT: A bill (H. R. 25800) granting a pension to Catherine Patterson; to the Committee on Invalid Pensions.

By Mr. UTTER: A bill (H. R. 25801) granting an extension of letters patent to Charles H. Matteson; to the Committee on Patents.

By Mr. WEDEMEYER: A bill (H. R. 25802) granting a pension to Alice S. Carey; to the Committee on Invalid Pensions.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ASHBROOK: Petition of A. B. Klar and 15 others, of Canal Dover, Ohio, against passage of a parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. BARTHOLDT: Memorial of the National Anti-Third Term League against election to office of President or Vice President of the same person for more than two terms and



proposed single term of six years; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. DIFENDERFER: Memorial of the Order of Independent Americans of Pennsylvania, favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. DONOHUE: Memorial of the Workmen's Sick and Death Benefit Fund of the United States of America, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. DYER: Petition of the Hebrew Veterans of the War with Spain, of New York City, against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of the Central Council of Social Agencies, of St. Louis, Mo., favoring passage of Senate bill 1, providing a bureau of health; to the Committee on Interstate and Foreign Commerce.

Also, petition of the Antikamnia Chemical Co., of St. Louis, Mo., against passage of the Wright bill, a bill imposing a tax upon the production, etc., of habit-forming drugs; to the Committee on Ways and Means.

Also, petition of the Schmetzer Arms Co., of Kansas City, Mo., against passage of the Oldfield bill, proposing change in patent laws; to the Committee on Patents.

Also, petition of the Charles F. Luehrmann Hardwood Lumber Co., of St. Louis, Mo., relative to shippers having the same opportunity to go to court to correct mistakes as the carriers; to the Committee on the Judiciary.

Also, petition of the American Embassy Association, favoring passage of House bill 22589, for legation and consular buildings; to the Committee on Foreign Affairs.

Also, petition of Mary F. Manis, of St. Louis, Mo., favoring passage of the Roddenberry-Simmons antiprize-fight bill so amended as to prohibit films of prize fights being sent from one State to another; to the Committee on Patents.

Also, petition of the Liquor Dealers' Benevolent Association of St. Louis, Mo., against passage of the Kenyon-Sheppard interstate liquor bill; to the Committee on the Judiciary.

Also, petition of the Wagner Electric Manufacturing Co., of St. Louis, Mo., against passage of the Oldfield bill, proposing change in patent laws; to the Committee on Patents.

By Mr. HUGHES of New Jersey: Petition of the American Truth Society, of Paterson, N. J., against passage of bill to celebrate 100 years of peace with England; to the Committee on Industrial Arts and Expositions.

By Mr. KINKEAD of New Jersey: Petition of citizens of New Jersey, favoring passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. LINDSAY: Petition of the National Shorthand Reporters' Association, favoring civil-service laws affecting court reporters; to the Committee on the Judiciary.

Also, petition of the National Association of Piano Merchants of America, against passage of the Oldfield bill, proposing change in the patent laws; to the Committee on Patents.

By Mr. MAGUIRE of Nebraska: Petition of citizens of the first district of Nebraska, favoring regulation of express rates, etc.; to the Committee on Interstate and Foreign Commerce.

By Mr. McMORRAN: Petition of citizens of the State of Michigan, against passage of a parcel-post system; to the Committee on the Post Office and Post Roads.

By Mr. MOTT: Petition of the American Embassy Association, favoring passage of House bill 22589, for improvement of foreign service; to the Committee on Foreign Affairs.

Also, petition of the Shorthand Club, of New York, against passage of the Slep bill (H. R. 4036) to provide reporters for United States district courts; to the Committee on the Judiciary.

Also, petition of the National Association of Piano Merchants of America, against passage of the Oldfield bill, proposing change in patent laws; to the Committee on Patents.

By Mr. SABATH: Memorial of the First Bersorssien Congregation and Congregation Anehir Odessa, of Chicago, Ill., against passage of bills restricting immigration; to the Committee on Immigration and Naturalization.

By Mr. WILSON of New York: Petition of the Shorthand Club, of New York, against passage of the Slep bill (H. R. 4036) to provide official shorthand reporters for United States district courts; to the Committee on the Judiciary.

Also, petition of the National Association of Piano Merchants of America, against passage of the Oldfield bill, proposing change in the patent laws; to the Committee on Patents.

By Mr. YOUNG of Texas: Petition of citizens of Gilmer and adjacent territory in Texas, favoring preservation of the old Smithsonian weather records; to the Committee on Agriculture.

## SENATE.

WEDNESDAY, July 17, 1912.

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. Smoot and by unanimous consent, the further reading was dispensed with and the Journal was approved.

Mr. HEYBURN. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The Senator from Idaho suggests the absence of a quorum. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Dillingham	Martine, N. J.	Smith, Ariz.
Bacon	Fletcher	Massey	Smith, Ga.
Borah	Gallinger	Myers	Smith, S. C.
Brandeggee	Gardner	O'German	Smoot
Bristow	Gronna	Overman	Stone
Bryan	Heyburn	Page	Sutherland
Burnham	Hitchcock	Paynter	Swanson
Burton	Johnson, Me.	Percy	Thornton
Chamberlain	Johnson, Ala.	Perkins	Tillman
Clapp	Jones	Pomerene	Warren
Clark, Wyo.	Kenyon	Reed	Wetmore
Crawford	McCumber	Root	Williams
Culberson	McLean	Shively	Works
Cummins	Martin, Va.	Simmons	

Mr. THORNTON. I announce the necessary absence of my colleague [Mr. FOSTER] on account of illness. I make this announcement for the day.

The PRESIDENT pro tempore. Fifty-five Senators have answered to their names. A quorum of the Senate is present.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by J. C. South, its Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 56. An act to prohibit interference with commerce among the States and Territories and with foreign nations, and to remove obstructions thereto, and to prohibit the transmission of certain messages by telegraph, telephone, cable, or other means of communication between States and Territories and foreign nations;

H. R. 22913. An act to create a department of labor; and

H. R. 25741. An act amending section 3392 of the Revised Statutes of the United States, as amended by section 32 of the act of August 5, 1909.

## ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the President pro tempore:

S. 338. An act authorizing the sale of certain lands in the Colville Indian Reservation in the town of Okanogan, State of Washington, for public-park purposes;

S. 1152. An act granting an increase of pension to Mary Bradford Crowninshield;

S. 4745. An act to consolidate certain forest lands in the Paulina (Oreg.) National Forest;

S. 5446. An act relating to partial assignments of desert-land entries within reclamation projects made since March 28, 1908;

S. 6084. An act granting pensions and increase of pensions to certain soldiers of the Civil War and certain widows and dependent relatives of such soldiers and sailors;

S. 6934. An act to provide an extension of time for submission of proof by homesteaders on the Uintah Indian Reservation;

S. 7002. An act to authorize the Secretary of the Interior to grant to Salt Lake City, Utah, a right of way over certain public lands for reservoir purposes;

H. R. 17239. An act to authorize the Arkansas & Memphis Railway Bridge & Terminal Co. to construct, maintain, and operate a bridge across the Mississippi River;

H. R. 20501. An act to authorize the Secretary of the Treasury to exchange the site heretofore acquired for a United States immigration station at Baltimore, Md., for another suitable site, and to pay, if necessary, out of the appropriation heretofore made for said immigration station an additional sum in accomplishing such exchange, or to sell the present site, the money procured from such sale to revert to the appropriation made for said immigration station, and to purchase another site in lieu thereof;

H. R. 23515. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy and certain soldiers and sailors of wars other than the Civil War, and to widows and dependent relatives of such soldiers and sailors; and